

Wallace

**GRANT OF LICENSE AND AGREEMENT  
(Fiber Optics)**

**NORTH COAST RAILROAD AUTHORITY**

and

**WILLIAMS COMMUNICATIONS, INC.**

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GRANT OF LICENSE AND AGREEMENT  
(Fiber Optics)

THIS GRANT OF LICENSE AND AGREEMENT (this "Agreement") is entered into as of this 16<sup>th</sup> day of FEBRUARY 2000 (the "Effective Date") by and between NORTH COAST RAILROAD AUTHORITY, a Public Agency ("NCRA") and WILLIAMS COMMUNICATIONS, INC., a Delaware corporation ("Williams").

R E C I T A L S:

A. NCRA controls or is the owner of certain real property located in the Counties of Mendocino and Sonoma, State of California, generally described on the map attached as **Exhibit "A"** hereto (the "Servient Tenement").

B. Williams desires to acquire certain rights in that portion of the Servient Tenement described as a strip of land five feet (5') wide lying two and one-half feet (2½') on either side of the running line, extending from Healdsburg, Mile Post 68.8, to Cloverdale, Mile Post 86.4, and from Ukiah, Mile Post 111.7, to Calpella, Mile Post 120.5, the approximate distance being 26.4 miles, the general location of which is shown on the Track Charts attached hereto as **Exhibit "B"** and the precise location of which shall be fixed by the parties in accordance with Paragraph I hereof (the "License Area"). NCRA desires to grant to Williams, and Williams desires to accept, a non-exclusive License in, on, under, across and along the License Area, for the purposes hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual covenants and herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

I. License

A. Grant of License. For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NCRA does hereby grant, bargain, assign, apportion and convey to Williams, its successors and assigns, subject to the relocation rights set forth in Paragraph III below, a non-exclusive License in, on, under and along the License Area to construct, install, repair, replace, maintain, operate and use up to three (3), two-inch (2") diameter conduits, together with non-dialectic marker tape and telecommunications cable (the "License"). The License Area shall be the strip of land five feet (5') wide, lying two and one-half feet (2½') on either side of the running line of the conduits. The parties hereto agree that it is the intent of this Agreement to permit Williams to construct, install, repair, replace, maintain, operate and use a communications system, reasonable and necessary appurtenances thereto, and reasonable rights of access to and egress from and to the License Area for such purposes. Accordingly, NCRA does hereby grant, bargain, assign, apportion and convey to Williams, its successors and assigns, subject to the

relocation rights set forth in Paragraph III below, a non-exclusive License in, on, under and across the Servient Tenement (i) for a reasonable right of access to and egress from the License Area, (ii) to install necessary handholds, (iii) to install auxiliary and primary power sources at junction sites or regenerators sites, (iv) to install and provide for exits for the conduits from the boundaries of the License Area at junction sites, regenerator sites or other locations along the Servient Tenement as may be reasonable available, where necessary to service particular customers and (v) to install regenerators and junctions at locations on the Servient Tenement mutually agreed by Williams and NCRA.

In no event shall the appurtenances interfere with the commercially reasonable use of the dominant tenement as a transportation corridor. Williams' use of the License Area or Servient Tenement shall not interfere with the use of the Servient Tenement other than the License Area by NCRA or any other party holding prior rights. NCRA warrants and represents that it has all necessary rights, title and authority to grant Williams the License rights granted herein.

**B. Non-Exclusiveness of License.** The License is non-exclusive (excepting, however, NCRA shall have no right to interfere in any material manner with the communications system, including, without limitation, its lines or equipment). Williams shall have the exclusive use of its improvements.

**C. Conditions.** Williams shall have the right to terminate this Agreement in the event any of the following conditions (the "Conditions") are not satisfied:

(i) Williams must receive all necessary local, state, and federal governmental approvals relating to Williams' intended use of the License;

(ii) Williams' technical reports must establish to Williams' exclusive satisfaction that the License is capable of being utilized to accomplish Williams' intended use of the License; and

(iii) Written objections, if any, by local community residents must be resolved to the exclusive satisfaction of Williams to ensure popular support of Williams' operations in connection with the rights being granted to Williams herein.

Upon satisfaction of the Conditions, Williams shall deliver written notice of such satisfaction to NCRA (the "Satisfaction Notice"). Upon delivery of the Satisfaction Notice to NCRA, Williams' termination right reserved under this Paragraph I.C shall terminate and Williams may commence its construction on the License Area.

**D. Term.** The term of the License is twenty-five (25) years (the "Initial Term"), commencing on delivery of the Satisfaction Notice to NCRA (the "Commencement Date"). Williams is granted the option to renew the term of this Agreement for two (2) additional terms of ten (10) years each (the "Renewal Terms"), such Renewal Terms

commencing on the date following the expiration of the then existing term of this Agreement. Williams may exercise each Renewal Term by delivering to NCRA written notice of such exercise at least ninety (90) days prior to the expiration of the then existing term of this Agreement. Said Renewal Terms shall be on the same terms, conditions, provisions, and covenants as are set forth herein.

**E. Relocation of License.** NCRA has no right to relocate the License or the License Area to any other portions of the Servient Tenement, or to any other parcel of land that NCRA may now or hereafter own, except as expressly set forth in Paragraph III below.

**F. Consideration.**

(i) Following delivery of the Satisfaction Notice, Williams shall grant NCRA two (2) fiber optic strands on the routes as shown on Exhibit "C", at no cost to NCRA, for use by NCRA and its contractors and assignees solely for purposes of NCRA railroad communications.

(ii) Throughout the Initial Term of this Agreement and any extensions thereof Williams shall annually pay NCRA the sum equal to \$0.55 per linear foot of the length of the License Area (the "License Fee"). The License Fee for the first year of the Initial Term shall be due on the Commencement Date, with subsequent payments of the License Fee being due and payable thereafter annually on the anniversary of such date; provided, however, Williams shall not be deemed to be in default under this Agreement for failure to make payment of the License Fee when due unless such failure continues for a period of ten (10) business days after written notice thereof has been delivered by NCRA to Williams.

(iii) On the first (1<sup>st</sup>) anniversary of the Commencement Date, and every year thereafter during the Initial Term and the Renewal Terms (if exercised by Williams), the License Fee shall be adjusted in proportion to the cumulative change in the latest published Consumer Price Index compared to the same index as historically recorded for the month and year in which the Initial Term commenced. "Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers, All Items, U.S. City Average, 1982-84 = 100, (U.S. Department of Labor, Bureau of Labor Statistics). If the said Index ceases to be published, then a reasonably comparable index shall be used.

(iv) NCRA and Williams each represent to the other that it has dealt with no broker in connection with this Agreement, except that NCRA has dealt with Cyndee Logan, a California licensed real estate broker ("NCRA's Broker"). NCRA and Williams shall each hold the other harmless from and against any and all liability, loss, damage, expense, claim, action, demand, suit or obligation arising out of or relating to a breach of the foregoing representation. NCRA shall

be responsible for the payment of all commissions or other fees to NCRA's Broker.

**G. Cooperation.** NCRA agrees to use its best efforts to cooperate with Williams as may be reasonably necessary to enable Williams to seek and obtain any and all governmental approvals necessary for the use and enjoyment by Williams of the License Area for the purposes set forth in Paragraph I.A. above. Similarly, Williams shall cooperate with NCRA in the same manner as set forth above, as applicable.

**H. Ownership of Improvements.** The improvements placed on or under the License Area by Williams shall remain the property of Williams, notwithstanding any relocation of the License in accordance with Paragraph III below. Removal of improvements at termination of this Agreement shall be at Williams' sole expense.

**I. Recording.** Within ninety (90) days following completion of construction of Williams' improvements under Paragraph II below, Williams shall prepare and deliver to NCRA "as built" construction drawings showing the location of the conduits in the License Area and all appurtenances on the Servient Tenement, together with a property description of the License Area, based upon distance from center line of track and engineer station. NCRA shall promptly review and approve the "as built" drawings and a property description shall be attached hereto as Exhibit "D" and shall be maintained at the offices of the NCRA and Williams. Williams shall also prepare a legal description suitable for recording of the Williams improvements outside of the five foot (5') longitudinal License Area that are covered by regenerators, junctions and other appurtenances. True and correct copies of the legal descriptions shall be attached hereto as Exhibit "E" and shall be maintained at the offices of NCRA and Williams.

## **II. Construction of Williams Improvements.**

**A. Construction Procedures.** Williams, at its sole cost and expense, shall have the right to construct its improvements, subject to the following terms and conditions.

(i) Williams shall notify NCRA in writing of its intent to construct improvements on the License Area not less than sixty (60) days prior to commencement of work, together with copies of the plans and specifications for the work; provided, however, Williams shall not commence such construction prior to the Commencement Date. NCRA shall review and approve such plans and specifications not less than thirty (30) days after receipt. All improvements shall be installed pursuant to plans approved by NCRA, which approval shall not be unreasonably withheld, conditioned or delayed.

(ii) The parties intend to substantially reduce, by mutual written agreement, the time period for review and approval for the segment from Ukiah, California to

Calpella, California to accommodate construction during the winter and spring of 2000.

**(iii) Construction.**

(a) Williams, at Williams' sole cost and expense, shall cause all work in connection with the development and construction of the Williams improvements to be performed in conformance with prevailing industry standards, in a good and workmanlike manner and in compliance with all laws and lawful ordinances.

(b) Williams shall bear all costs incurred in connection with the development and construction of the improvements, including without limitation, (1) the communications facilities and appurtenant facilities, and (2) the costs of permits and other governmental obligations for the foregoing, and NCRA shall have no obligation for any costs incurred with respect to the development and construction of the Williams improvements.

**B. Right to Inspect.** Williams shall afford NCRA the reasonable right to inspect such work during its construction, and shall cooperate with and permit NCRA reasonable rights of access in connection therewith.

**C. Indemnification, Reimbursement.** Williams shall indemnify, defend and hold NCRA harmless from and against any cost, liability, damage or expense that NCRA may suffer or incur, including, without limitation, court costs and attorney's fees, arising out of, or in any way connected with, any construction of Williams improvements on the License Area, pursuant to this Paragraph II, except to the extent caused in whole or in part by NCRA's negligence or misconduct. Nothing expressed or implied in this Paragraph II.C. is intended to or shall be construed to (i) confer upon or give any person, firm, partnership, corporation, or governmental entity other than the parties hereto, their respective legal representatives, successors or assigns, any right or benefit under or by reason of this Paragraph II, (ii) limit or restrict either party hereto from seeking damages, indemnification, redress or other relief from any person, firm, partnership, corporation or governmental entity, other than the parties hereto, their respective legal representatives, successors or assigns; (iii) require NCRA or Williams to defend or indemnify the other party from and against any liability, cost or expense arising out of the negligent acts, omissions, or willful misconduct of the other party; or (iv) require either party to defend or indemnify the other party from any loss or damage caused by or resulting from interruption of or delay to such party's business.



### III. Relocation of License.

A. **Relocation of License.** NCRA shall have the right to relocate the License Area, including, without limitation, the appurtenant facilities subject to the following terms and conditions.

B. **Cost of Relocation.** In the event NCRA desires to relocate the License Area, including, without limitation, the appurtenant facilities, in connection with public transportation activities, such relocation shall be at Williams' sole cost and expense, provided, however, that Williams shall be so obligated to so relocate the License, or any appurtenant facility, in connection with public transportation activities only once per any one (1) location at its sole cost and expense. In the event that Williams relocates the License, including, without limitation, the appurtenant facilities, at its sole cost and expense in accordance with the preceding sentence, then Williams shall also be obligated to relocate the communication facilities of all other users of Williams facilities located within the License Area at its sole cost and expense. In the event NCRA desires to relocate the License, including, without limitation, the appurtenant facilities, for any other reason, or more than one (1) time in connection with public transportation activities, said relocation shall be at NCRA's sole cost and expense.

C. **Relocation: Notice to Williams.** In the event NCRA desires to relocate the License Area, NCRA shall notify Williams in writing of such desire not less than one year prior to the proposed effective date of such relocation (the "Relocation Notice"). The Relocation Notice shall set forth, without limitation, (i) the proposed location of the Substitute License Area, as hereinafter defined; (ii) the proposed effective date of the relocation of the License Area; (iii) a description of the means by which Williams will retain uninterrupted use of the License pending the relocation of the License Area; and (iv) whether such relocation is required in connection with public transportation activities. The following terms shall be defined as follows: (1) the License as relocated shall be referred to hereinafter as the "Substitute License"; and (2) the location of the Substitute License Area shall be referred to hereinafter as the "Substitute License Area." Williams' acceptance of the Substitute License shall be conditioned upon the Substitute License Area being suitable for Williams' intended use and 100% diverse from Williams' facilities and not creating a Single Point of Failure.

D. **Construction.**

(i) Williams, at NCRA's or Williams' sole cost and expense (as set forth above), shall cause all work in connection with the development and construction of the Substitute License, including, without limitation, the construction of any communications facilities to be performed in a good and workmanlike manner and in compliance with all applicable approved plans, approved specifications, laws and lawful ordinances.

(ii) NCRA or Williams (as set forth above) shall bear all costs incurred in connection with the development and construction of the Substitute License, including, without limitation, (A) the communications facilities and appurtenant facilities, and (B) the costs of permits and other governmental obligations for the foregoing.

(iii) Within sixty (60) days after receipt by Williams of the Relocation Notice, Williams shall submit to NCRA for its review and approval those final plans and specifications for the Substitute License that Williams will submit to the appropriate governmental authority to obtain a permit or other governmental approval therefor. NCRA shall be permitted sixty (60) days from the date of receipt by NCRA of any such plans and specifications to indicate its written approval thereof. If NCRA fails to indicate in writing its approval within such sixty (60) day period, Williams' plans and specifications shall be deemed approved; provided, further, NCRA's express disapproval with respect to any relocation of the License may not be unreasonable. Any approval by NCRA of the plans and specifications of Williams shall not be deemed an approval by NCRA of the safety or structural sufficiency or adequacy of the Substitute License, and such approval shall not release Williams, its agents, contractors, or subcontractors, from any liability arising in connection with the planning, design, development and construction of the Substitute License. Williams shall not commence construction of the Substitute License unless and until the same are approved by NCRA and all required permits, approvals or consents of governmental authorities are obtained by Williams.

(iv) NCRA shall have the right to review and approve all aspects of the construction of the Substitute License. NCRA agrees to cooperate fully with Williams and to permit all appropriate access to the Servient Tenement and the Substitute License Area.

**E. Effective Date of Relocation.** Notwithstanding anything to the contrary in the foregoing, Williams shall not be required to discontinue its use of the License, nor to commence use of the Substitute License, until the Substitute License is completed to the satisfaction of Williams in its sole discretion, and the use of the Substitute License is approved by all appropriate governmental authorities so that the continuity of the License is maintained at all times.

**F. Substitute License Agreement.** In the event that the License is relocated in accordance with and pursuant to the provisions of this Paragraph III, NCRA agrees to immediately execute, acknowledge and deliver to Williams an amended and restated grant of License and agreement in the form of this Agreement establishing the rights and obligations arising hereunder as to the Substitute License Area as a matter of record.

**G. Recording.** In the event that the License is relocated in accordance with and pursuant to the provisions of this Paragraph III, Williams agrees to execute such documentation as may be necessary to terminate all of Williams' rights and interests in



and to the use of the License Area of record.

**H. Ownership of Improvements.** Notwithstanding anything to the contrary in the foregoing, the improvements on the Substitute License shall be the property of Williams.

**I. Relocation Comprehensive.** Any relocation of the License pursuant to this Paragraph III shall include the relocation of all permitted uses of the License Area by Williams.

**IV. Damage and Destruction.** In the event that the whole or any part of the Servient Tenement, including, without limitation, the License Area is damaged or destroyed by any cause other than the negligence or willful misconduct of NCRA, Williams, at its cost and expense, shall repair, restore and rebuild that portion of the Servient Tenement subject to the use of such party, subject, however, to the provisions of Paragraph II above. In the event Williams is unable to commence repairs or restoration to the License Area until such time as NCRA completes any repairs on the Servient Tenement, NCRA shall exercise due diligence and its best efforts to complete such repairs as promptly as reasonably possible so as to limit any inconvenience to Williams.

**V. Condemnation.**

**A.** If the License Area is totally taken by condemnation, this Agreement shall remain in full force and effect, except that Williams may elect to terminate this Agreement at any time following such total taking, if Williams, in Williams' sole discretion, determines that any alternate location for the License on the Servient Tenement proposed by NCRA is not suitable for Williams' intended use thereof, and any condemnation award directly attributable to the License Area, the License and the use thereof, shall be paid to Williams and NCRA as their interests thereto appear.

**B.** If a portion of the License Area is taken by condemnation, this Agreement shall remain in full force and effect, except that Williams may elect to terminate this Agreement at any time following such partial taking if Williams, in Williams' sole discretion, determines that the remaining portion of the License Area is not suitable for Williams' intended use thereof. Any condemnation award directly attributable to that portion of the License Area, the License and the use thereof, subject to the taking, shall be paid to Williams and NCRA as their interests thereto may appear.

**C.** If all or any portion of the License Area is taken temporarily by condemnation, this Agreement shall remain in full force and effect, and the full amount of any condemnation award attributable directly to the License Area, the License and the use thereof, shall be paid to Williams.

**D.** In the event of a total or partial taking of the License Area, NCRA shall propose

to Williams an alternate location for the License Area so as to enable Williams to continue those operations conducted or that may be conducted by Williams on the License Area. Nothing herein contained shall modify Williams' right to terminate this Agreement in the event of a total or partial taking of the License Area as aforesaid.

VI. Access. NCRA shall provide access to Williams and Williams' agents by providing rail car carriage along the course of the Servient Tenement upon reasonable demand of Williams and reasonable reimbursement to NCRA and NCRA's agents for the actual cost of providing access to Williams.

VII. Compliance with Governmental Regulations. Each party, at its sole cost and expense, shall take all action as is necessary to comply with any and all orders or requirements affecting the Servient Tenement or the License, as applicable, placed thereon by federal, state, county and municipal authority having jurisdiction thereover.

VIII. Notices. All notices required or permitted to be given hereunder shall be in writing and mailed postage prepaid by certified or registered mail, return receipt requested, or by personal delivery, or by overnight courier, to the appropriate address indicated below or at such other place or places as either NCRA or Williams may, from time to time, respectively, designate in a written notice given to the other. Notices shall be deemed sufficiently served four (4) days after the date of mailing thereof or upon personal delivery.

To Williams:	Williams Communications, Inc. 110 West Seventh Street, Suite 500 Tulsa, OK 74119-1044 Attn: Director of Fiber Services
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With Copy to:	Williams Communications, Inc. One Williams Center Suite 4100 Tulsa, OK 74121 Attn: General Counsel
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To NCRA:	North Coast Railroad Authority 4 West Second Street Eureka, CA 95501
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With Copy to:	Christopher J. Neary Attorney at Law 110 S. Main St., Ste. C Willits, CA 95490
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**IX. Miscellaneous Provisions.**

**A. No Waiver.** No waiver of any default or breach of any covenant by either party hereunder shall be implied from any omission by either party to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and then the waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term or condition herein by either party shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by either party requiring further consent or approval shall not be deemed to waive or render unnecessary their consent or approval to or of any subsequent similar acts.

**B. Severability.** Each provision of this Agreement is intended to be severable. If any term or provision hereof shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

**C. Relation of the Parties.** It is hereby expressly agreed and understood that in the performance of the terms herein provided (i) Williams and Williams' employees and agents shall be deemed to be independent of NCRA and not agents or employees of NCRA and Williams shall not be liable to NCRA or any persons, whether employees or agents of NCRA or otherwise, for any death, injuries, or damage arising out of Williams' proper performance of this Agreement; and (ii) NCRA and NCRA's employees and agents shall be deemed to be independent of Williams and not agents or employees of Williams and NCRA shall not be liable to Williams or any persons, whether employees or agents of Williams or otherwise, for any death, injuries, or damage arising out of NCRA's proper performance of this Agreement.

**D. Attorneys' Fees.** If any suit or action be instituted to enforce the rights of either party under this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

**E. Successors and Assigns.** Williams shall have the right, power and authority to assign this Agreement, either voluntarily, involuntarily or by operation of law, without first obtaining the consent of NCRA. In the event of a voluntary assignment by Williams, Williams shall provide to NCRA the following: (i) not less than thirty (30) days written notice to NCRA of the assignment; (ii) a duly executed and authorized agreement confirming the Williams' assumption of all of Williams' obligations under this Agreement in a form reasonably satisfactory to NCRA; and (iii) a duly executed and authorized agreement confirming the release of all of NCRA's obligations to Williams hereunder, in a form reasonably acceptable to NCRA. If NCRA reasonably determines that such entity is not creditworthy (and such entity would be permitted to self-insure

hereunder) such entity shall obtain general public liability insurance in an amount not less than Five Million Dollars (\$5,000,000.00), naming NCRA as an additional insured thereunder. In the event of a sale of the assets of Williams or a controlling interest in Williams, the rights and obligations of Williams arising under this Agreement shall be deemed assigned to, and fully enforceable by, such successor to Williams. NCRA shall have the right, power and authority to assign this Agreement or to delegate any duties or obligations arising hereunder, either voluntarily, involuntarily or by operation of law, without first obtaining the consent of Williams. Notwithstanding the foregoing, in the event of a voluntary assignment by NCRA, NCRA shall provide to Williams the following: (1) not less than thirty (30) days prior written notice of the assignment; (2) a duly executed and authorized agreement confirming the assumption of all of NCRA's obligations under this Agreement, in a form reasonably satisfactory to Williams; and (3) a duly executed and authorized agreement confirming the release of all of Williams' obligations to NCRA under this Agreement, in a form reasonably satisfactory to Williams. All of the rights, benefits, duties, liabilities and obligations of the parties hereto shall inure to the benefit of, and be binding upon, their respective permitted successors and assigns, and upon a permitted assignment hereunder the assigning party's duties and obligations arising after the date of such assignment shall terminate.

**F. Time.** Time is of the essence of this Agreement and every provision herein contained.

**G. Headings.** The title and headings of the Paragraphs hereof are intended solely for means of reference and are not intended to modify, explain or place any construction on any of the provisions of this Agreement.

**H. Construction.** The language set forth in this Agreement shall in all cases be simply construed in accordance with its fair meaning and not strictly construed for or against either party. In this context, the neuter gender includes the feminine and masculine and the singular number includes the plural, as the context so dictates, and the word "person" shall include individuals and all legal entities, including, without limitation, corporations, partnerships and other associations.

**I. Confidentiality.** The Parties understand and agree that the terms and conditions of this Agreement, all documents referenced herein, communications between the Parties regarding this Agreement or the service to be provided hereunder, as well as any financial or business information of either Party are confidential ("Confidential Information"). Such Confidential Information shall not be disclosed by either Party to any individual other than the directors, officers and employees of such Party or agents of such Party who have specifically agreed to nondisclosure of the terms and conditions hereof. However, neither Party shall be required to keep confidential any information that (i) becomes publicly available other than through the receiving Party; (ii) is required to be disclosed pursuant to a governmental or judicial rule, order or regulation; (iii) the disclosing Party

independently develops; (iv) becomes available to the disclosing Party without restriction from the third party; or (v) is required by its lender and is given to such lender on a confidential announcement or other disclosure relating to the transactions contemplated herein, except to their professional advisors, unless otherwise required by law. Each Party shall disclose the proposals herein to such professional advisors and to their respective employees on a need-to-know basis only, and shall instruct such persons to maintain confidentiality.

**J. Entire Agreement.** This Agreement, all exhibits hereto, and all documents referred to herein, constitute the entire agreement between the parties. There are no oral or parol agreements existing between the parties which are not expressly set forth herein and therein. This Agreement may not be modified, amended or otherwise changed in any manner except by writing executed by the party to be charged.

**K. Exhibits.** All exhibits attached hereto are incorporated herein by this reference.

**L. Further Assurances.** Each of the parties hereto agree to do any further acts, or execute any further documents, which may be reasonably necessary or required in order to carry out the purpose of this Agreement.

**M. Record.** NCRA and Williams hereby covenant that they shall execute a memorandum of this Agreement, in form reasonably acceptable to both NCRA and Williams, within thirty (30) days after execution of this Agreement. Such memorandum may be recorded by NCRA or Williams in the appropriate real property records.

**N. Representation and Warranty.** Each of the parties hereto hereby represents and warrants that; (i) it has full right and authority, including any requisite corporate authority, to execute and deliver this Agreement and perform its respective obligations under this Agreement; (ii) the execution of this Agreement is not violative of its charter, by-laws, or any law, regulation or agreement by which it is bound or to which it is subject; and (iii) Williams further represents that by entering into this Agreement Williams execution and delivery of this Agreement is not violative of any existing agreement between Williams and the Union Pacific Railroad.

**O. Effectiveness.** This Agreement shall be effective as of the Effective Date.

[Signatures on following page]

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

NORTH COAST RAILROAD AUTHORITY

By: [Signature]

Its: Chairman

Attested: [Signature]

By: James Bridges

Its: Executive Director

Approved as to Form:

By: [Signature]

Its: General Counsel

WILLIAMS COMMUNICATIONS, INC.

By: [Signature]

T. F. ELBERT  
Attorney-in-fact

Attested: [Signature]

By: Donald R. Palmer

Its: Attorney-in-fact

Approved as to Form:

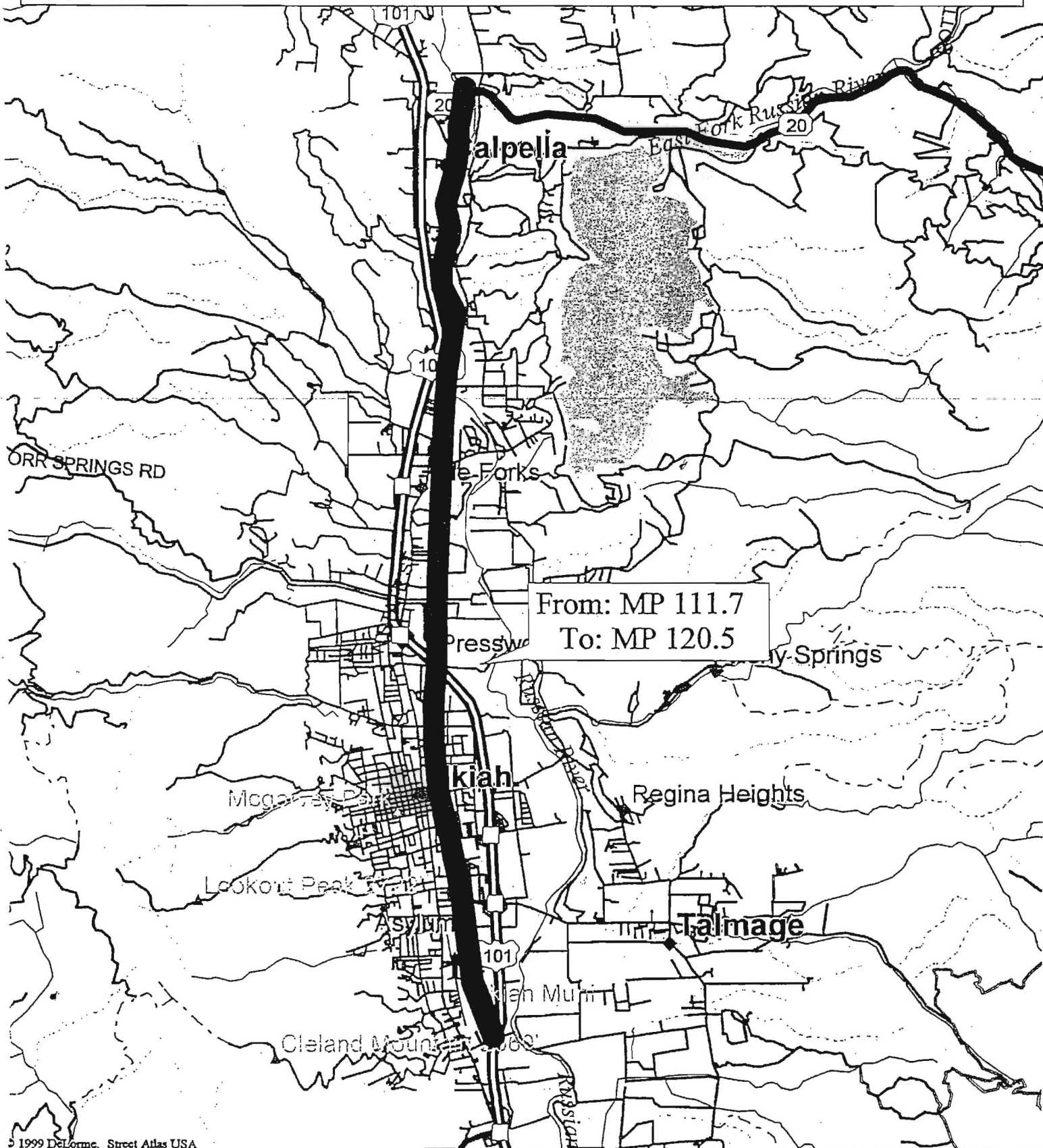
By: [Signature]

Its: [Signature]

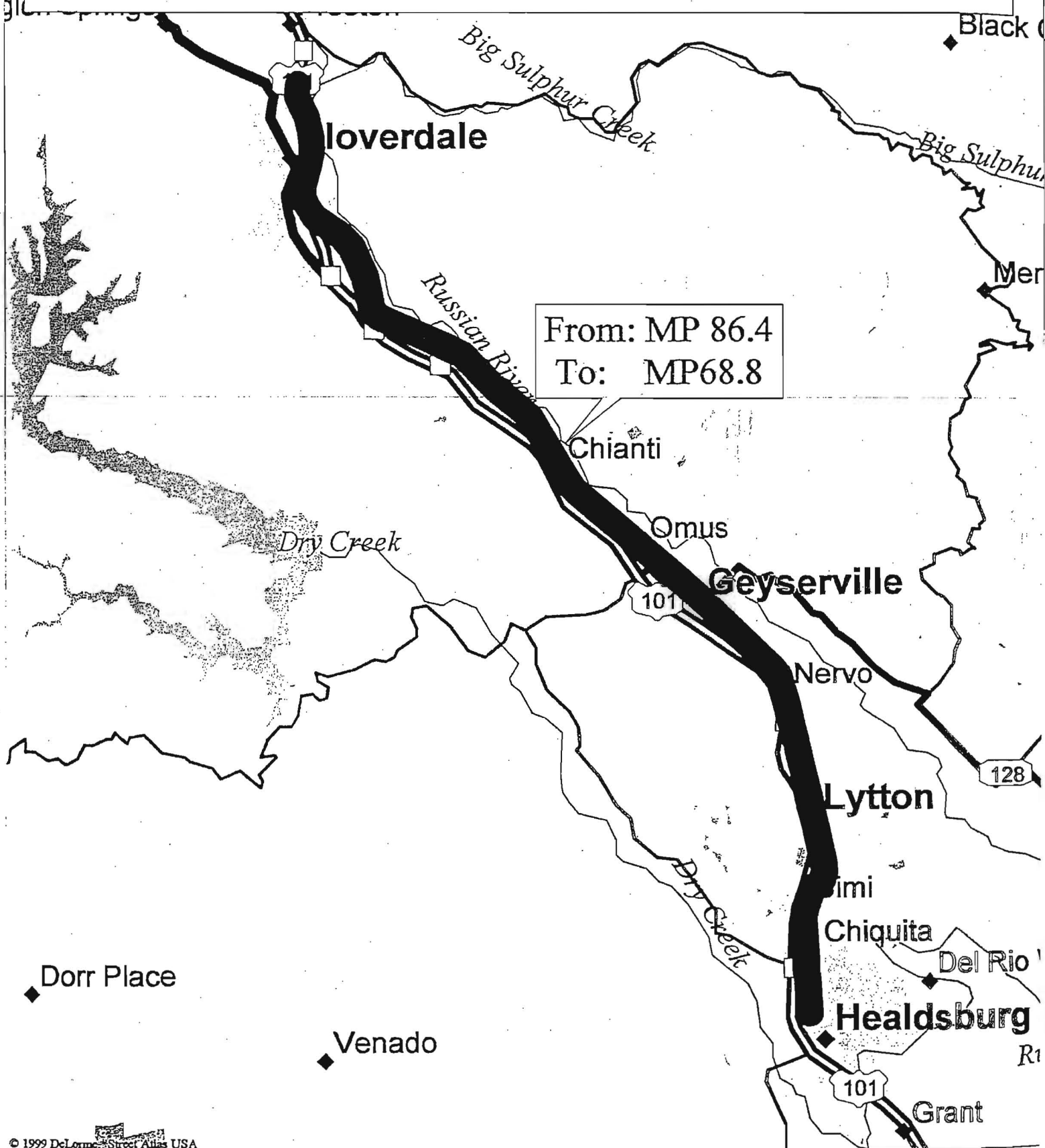




# Exhibit "A" Calpella to Ukiah



# Exhibit "A"





RETURN RECORDED DOCUMENT TO:  
Williams Communications, Inc.  
418 Aviation Blvd., Suite B  
Santa Rosa, CA 95403



GENERAL PUBLIC  
04/11/2000 14:46 DEED  
RECORDING FEE: 44.00

2000034709

OFFICIAL RECORDS OF  
SONOMA COUNTY  
BERNICE A. PETERSON

11



## RIGHT OF WAY AND EASEMENT AGREEMENT

For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledgeable, the undersigned, herein called Grantor (whether one or more), hereby grants, sells, conveys, and warrants unto Williams Communications, Inc., DBA Vyvx, Inc., in California, a Delaware corporation operating as specialized communications common carrier and telephone public utility, whose mailing address is P. O. Box 22067 Tulsa, OK 74121, its successors and assigns, herein called Grantee, a perpetual easement and right of way (hereinafter, together with the rights and privileges herein granted, "Easement"), together with all improvements located thereon, with a width and centerline as indicated below, to locate, survey, construct, maintain, inspect, operate, protect, repair, alter, replace, change the size of, relocate, establish, lay, install, test, substitute, renew, reconstruct, restore, abandon, and remove underground or overground communications system(s) together with necessary underground or overground conduits, cables, wires, underground splicing boxes, and any other appurtenances thereto, at any time or times, or to transmit data or communications for and by others upon and along a route or routes to be selected by Grantee, on, in, over, under, through, and across the following described land (the "Property") located in the County of Sonoma, State of California, to wit:

Across a portion of that property described in the Deed of Gift dated January 6, 1995 and recorded under Document Number 1995-0003506 Official Records of Sonoma County, California; and further shown on Exhibits A and B attached hereto and made a part hereof. (APN# 86-030-022) (APN# 86-010-004)

together with the right of ingress and egress to, from and along the Easement and the right to use gates and existing roads for the aforesaid purposes (Grantee shall and does hereby agree to restore any damage to such lands, gates, or roads caused by its use thereof as described below) and together with temporary easement to provide work space along and adjacent to the Easement as may be reasonably necessary in connection with construction, maintenance, operation, repair, removal, or replacement of the communications system(s).

The exact location of the Easement conveyed by this instrument shall be determined, in the sole discretion of Grantee, by the installation of Grantee's communications system(s) (the Final Easement). Subject to the Grantee's temporary easement rights described above, the Final Easement shall extend for five feet on each side of the centerline of the first working

communications system installed. Upon completion of construction of the communications system placed hereunder, and in no event later than one year from the date of this Agreement, Williams will provide an as-built drawing of the Final Easement and record the same in the office of the Recorder by referencing said legal description specifically to this instrument in a "Notice of Final Description" in a form attached hereto as Exhibit C and made a part hereof.

Grantee shall restore the surface of the Final Easement and temporary easement as nearly as reasonably practical to its original grade and level after performing any construction or other work that disturbs the surface. Grantee shall cause reasonable payment to be made for actual damages to crops, timber, livestock, and improvements of Grantor directly resulting from the exercise, now or in the future, of the rights herein granted; provided, however, that Grantee may elect, at Grantee's sole option, to restore crops, timber, livestock, or improvements to the pre-existing or equivalent or better condition (or replace fencing with gates) in lieu of paying damages; and provided further that after a communications system(s) has been constructed hereunder, Grantee shall not be liable for damages caused to trees, undergrowth and brush removed from the Final Easement by Grantee.

All oil, gas, and other minerals are reserved to Grantor, provided that Grantor shall not use, nor permit the use of, a method of extraction that interferes with or impairs in any way the exercise of Grantee's rights herein or the operation of Grantee's facilities. Grantor shall have the right use and enjoy the above described premises except that the Grantors shall not interfere with or impair or permit other to interfere with or impair in any way the exercise of the rights herein granted to Grantee or the operation of the Grantee's facilities. Further, Grantee shall have the right from time-to-time to cut and keep clear obstructions or vegetation that may injure, endanger, or interfere with the use, maintenance, or inspection of the communications system(s).

Grantor shall not nor shall Grantor permit others to construct, create, or maintain any road, reservoir, excavation, obstruction, structure, building, or improvement of any kind, or change the land grade on, over along, or across the area of the Final Easement without the prior written consent of the Grantee (which shall not be unreasonable withheld).

Grantor agrees to keep the amount of compensation Grantee paid to acquire the Final easement strictly confidential and to not disclose that amount to any third parties.

Subject to the terms hereof, Grantee shall have other rights and benefits necessary or useful to the full and complete enjoyment and use of the Final Easement for the purposes stated herein.

The terms and provisions of this Agreement shall constitute covenants running with the land and shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns, personal representatives, devisees and heirs.

The instrument fully sets forth the terms and conditions of the Agreement. There is no prior or contemporaneous oral or other written agreements, between Grantor and Grantee that modify, alter, or amend this Agreement. This instrument may be modified or amended only in writing duly executed and acknowledged by the parties hereto.

Grantee may apportion and assign, lease, or transfer this Final Easement in whole or in part.

TO HAVE AND TO HOLD the Final Easement, temporary easement, rights and privileges unto Grantee, its successors and assigns forever, and Grantor hereby binds Grantor, Grantor's heirs, devisees, personal representatives, successors, assigns, or to warrant and forever defend all and singular the Final Easement, temporary easement, and the property rights, privileges, interests above-described, unto Grantee, its successors and assigns, against every person whomsoever claiming or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF THE 11<sup>th</sup> day of April, 2000

GRANTOR: Gregory W. Herrick  
Gregory W. Herrick

WITNESS: Lucas R. Umagay, Jr.

Tract No. CA-SO-092

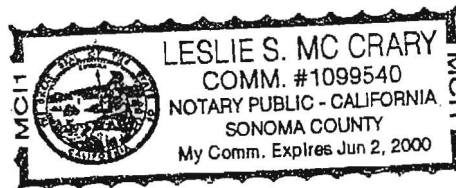
State of CaliforniaCounty of SonomaOn April 11, 2000 before me Leslie S. McCrary, Notary Public  
Name and Title of Officerpersonally appeared Gregory W. Herrick  
Name of Signer☒ personally known to me

OR

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

WITNESS my hand and official seal.

Leslie S. McCrary  
Signature of Notary Public



## EXHIBIT "A"

## COMMUNICATIONS SYSTEM EASEMENT DESCRIPTION

Being a strip of land over a portion of the lands of Gregory W. Herrick and Shirlee Zane-Herrick, situated in the Rancho Sotoyome, County of Sonoma, State of California, as described in Document No. 1995-0003506, Official Records of Sonoma County, said easement more particularly described as follows:

Beginning at the most northerly corner of Parcel Two of said Document, said point being the most southerly corner of that certain parcel described in Corporation Grant Deed recorded in Book 1781 at Page 108, Official Records of Sonoma County, described as Parcel One and a point on the Right of Way of the State of California Highway 101 as shown on that certain map titled Right of Way Record Map on file at the Sonoma County Public Works Department under Serial No. 036258;

Thence leaving said Right of Way, along the westerly boundary of said Parcel Two, S 02°43'30" W, 65.68 feet;

Thence S 67°06'34" E, 244.22 feet;

Thence S 58°17'26" E, 175.00 feet;

Thence S 54°51'15" E, 497.72 feet;

Thence S 44°40'30" E, 158.60 feet to the northwesterly boundary of that certain parcel of land owned by the Gregory Herrick Trust, et al as described in Document No. 1998-0025990;

Thence along said northwesterly boundary, N 69°22'30" E, 21.90 feet to Point A, which point is the intersection of said northwesterly boundary and the Southwesterly boundary line of the State Freeway IV-Son-101, herein referred to as on the Right of Way of the State of California Highway 101 as shown on that certain map titled Right of Way Record Map on file at the Sonoma County Public Works Department under Serial No. 036258, Thence lying contiguous to and along said southwesterly boundary the following courses and distances;

N 44°40'30" W, 169.31 feet;

N 54°51'15" W, 500.10 feet;

N 58°17'26" W, 448.77 feet to the Point of Beginning.

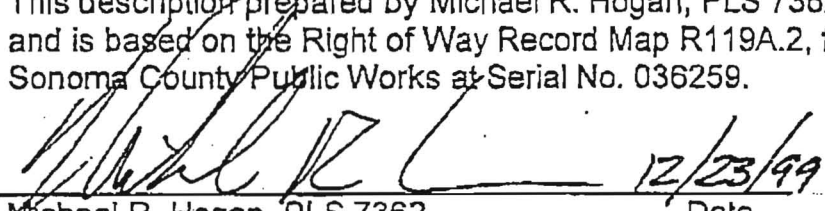
(continues)

Excepting therefrom that portion of the herein described easement which lies within Parcel Two and Three as described in Document No. 1995-0003506

Containing 0.025 acres

Over Assessor's Parcel No. 086-030-022

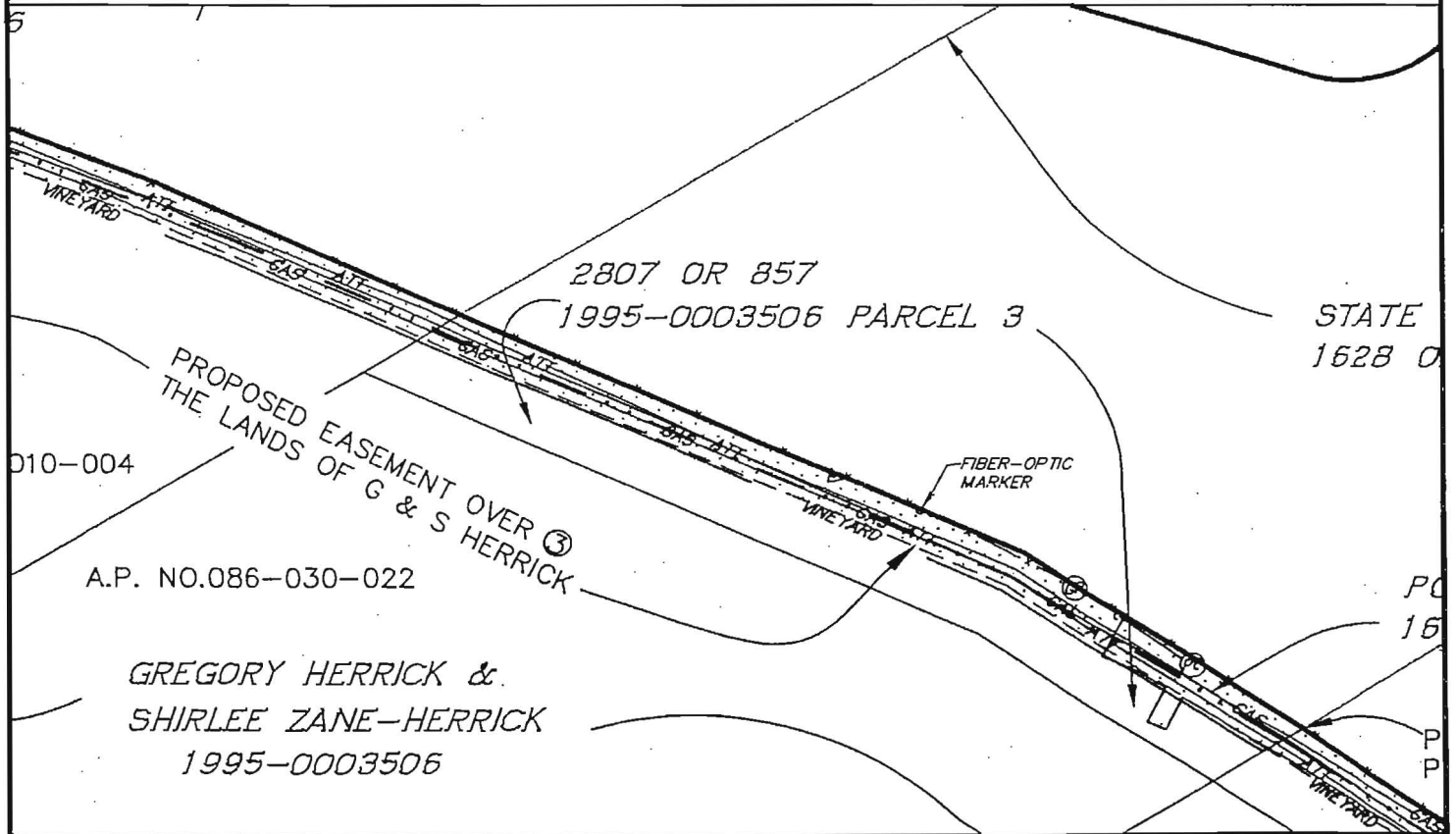
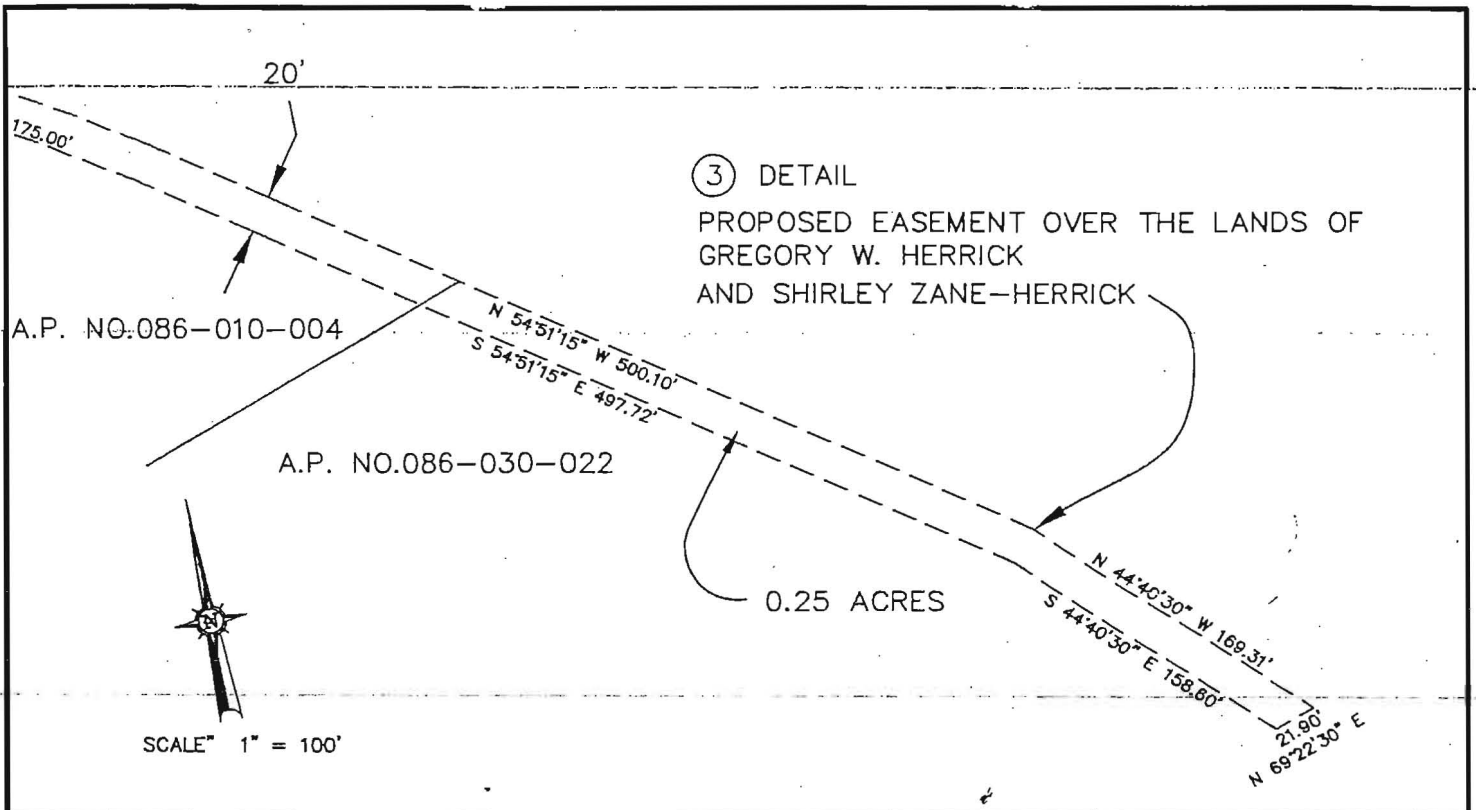
This description prepared by Michael R. Hogan, PLS 7362 in December, 1999, and is based on the Right of Way Record Map R119A.2, filed in the office of Sonoma County Public Works at Serial No. 036259.

  
Michael R. Hogan, PLS 7362

12/23/99  
Date

END OF DESCRIPTION





**HOGAN - FORD**  
LAND SURVEYING  
8910 Sonoma Highway Ph.(707)833-8458  
Kenwood, CA 95462 Fax(707)833-5744



PLAT OF EASEMENTS  
OVER THE LANDS OF  
GREGORY HERRICK & SHIRLEE ZANE-HERRICK  
A.P. NO. 086-030-022  
PREPARED FOR:  
WILLIAMS COMMUNICATIONS, INC.

101

### COMMUNICATIONS SYSTEM EASEMENT DESCRIPTION

Being a strip of land over a portion of the lands of Gregory W. Herrick and Shirlee Zane-Herrick, situated in the Rancho Sotoyome, County of Sonoma, State of California, as described in Document No. 1995-0003506, Official Records of Sonoma County, said easement more particularly described as follows:

Beginning at the most northerly corner of Parcel Two of said Document, said point being the most southerly corner of that certain parcel described in Corporation Grant Deed recorded in Book 1781 at Page 108, Official Records of Sonoma County, described as Parcel One and a point on the Right of Way of the State of California Highway 101 as shown on that certain map titled Right of Way Record Map on file at the Sonoma County Public Works Department under Serial No. 036258;

Thence leaving said Right of Way; along the westerly boundary of said Parcel Two, S 02°43'30" W, 65.68 feet;

Thence S 67°06'34" E, 244.22 feet;

Thence S 58°17'26" E, 175.00 feet;

Thence S 54°51'15" E, 497.72 feet;

Thence S 44°40'30" E, 158.60 feet to the northwesterly boundary of that certain parcel of land owned by the Gregory Herrick Trust, et al as described in Document No. 1998-0025990;

Thence along said northwesterly boundary, N 69°22'30" E, 21.90 feet to Point A, which point is the intersection of said northwesterly boundary and the Southwesterly boundary line of the State Freeway IV-Son-101, herein referred to as on the Right of Way of the State of California Highway 101 as shown on that certain map titled Right of Way Record Map on file at the Sonoma County Public Works Department under Serial No. 036258, Thence lying contiguous to and along said southwesterly boundary the following courses and distances;

N 44°40'30" W, 169.31 feet;

N 54°51'15" W, 500.10 feet;

N 58°17'26" W, 448.77 feet to the Point of Beginning.

(continues)

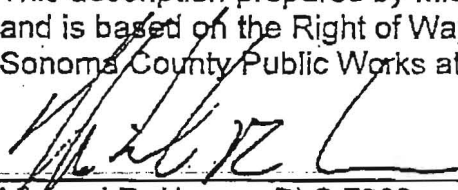


Excepting therefrom that portion of the herein described easement which lies within Parcel One as described in Document No. 1995-0003506

Containing 0.37 acres

Over Assessor's Parcel No. 086-010-004

This description prepared by Michael R. Hogan, PLS 7362 in December, 1999, and is based on the Right of Way Record Map R119A.2, filed in the office of Sonoma County Public Works at Serial No. 036259.

  
Michael R. Hogan, PLS 7362

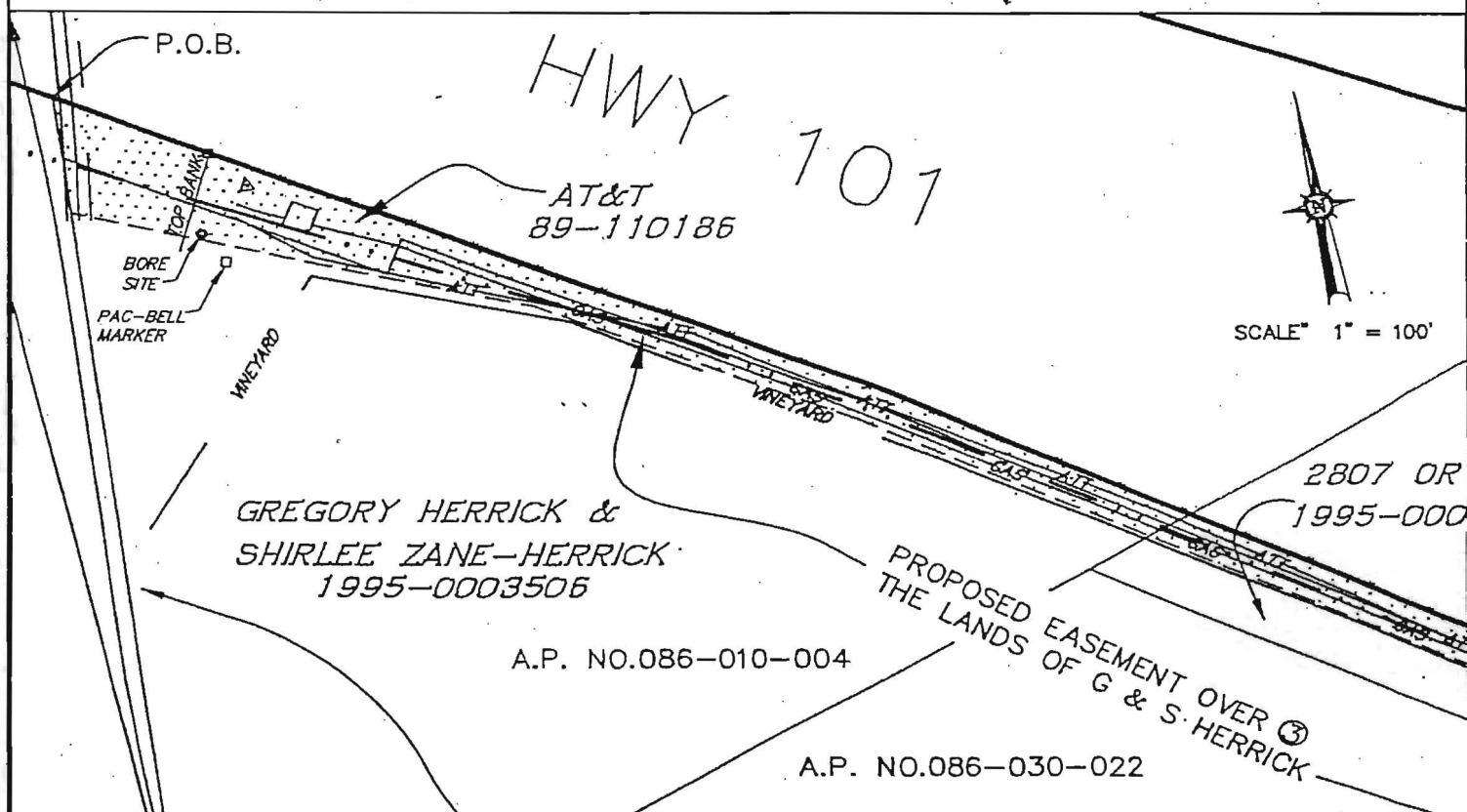
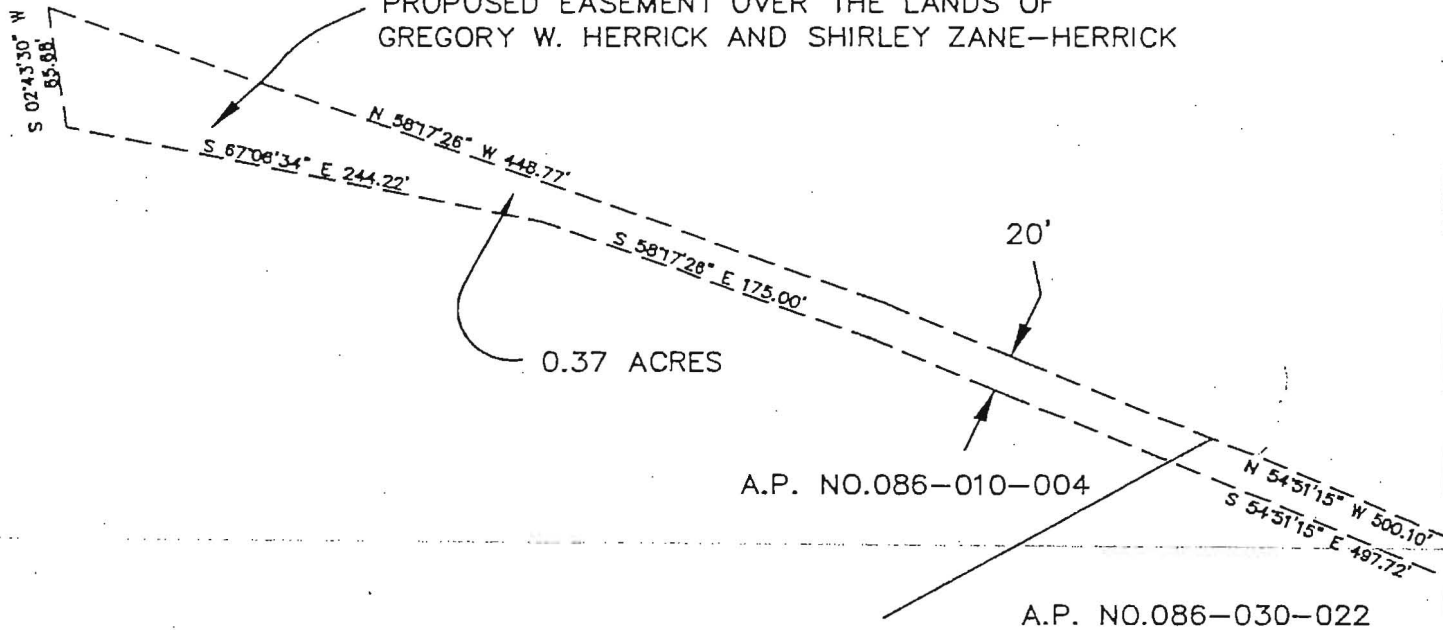
12/20/99  
Date

END OF DESCRIPTION



③ DETAIL

PROPOSED EASEMENT OVER THE LANDS OF  
GREGORY W. HERRICK AND SHIRLEY ZANE-HERRICK



**HOGAN - FORD**  
LAND SURVEYING  
5910 Bonoma Highway Ph (707) 633-8488  
Kenwood, CA 95462 Fax (707) 633-5744



PLAT OF EASEMENT  
OVER THE LANDS OF  
GREGORY HERRICK & SHIRLEE ZANE-HERRICK  
A.P. NO. 086-010-004  
PREPARED FOR:  
WILLIAMS COMMUNICATIONS, INC.

EXHIBIT C

## RETURN RECORDED DOCUMENT TO:

Williams Communications, Inc.  
418 Aviation Blvd., Suite B  
Santa Rosa, California 95403

---

Space above this line for recorder's use only.NOTICE OF FINAL DESCRIPTION

This document is being recorded in fulfillment of those conditions as set forth in that certain RIGHT OF WAY AND EASEMENT AGREEMENT from Gregory W. Herrick as Grantor to WILLIAMS COMMUNICATION, INC., DBA Vyvx, Inc., in California, a Delaware Corporation operating as a specialized communications common carrier and telephone public utility, as Grantees dated \_\_\_\_\_, and recorded at \_\_\_\_\_ of the Official Records of Sonoma County, State of California (the "Easement" herein).

Pursuant to those rights conveyed to Grantee by said Easement, Grantee does hereby further define the centerline location of that ten (10) foot wide strip of land referred to in said Easement as follows:

Being an easement ten (10.00) feet in width for the installation of communication facilities within the hereinafter described strip across a portion of that property described in the Deed of gift dated January 6, 1995 and recorded under Document Number 95-0003506, Official Records, Sonoma County, California; and further shown on Exhibit A and B attached to and made a part of said Easement.

Said strip is described as follows:

[INSERT STRIP DESCRIPTION HERE]

Nothing herein contained shall, or shall be construed to, modify in any way or terminate any of the covenants, terms, conditions or provisions under and by virtue of said Easement in the land therein described.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2000 at \_\_\_\_\_.

WILLIAMS COMMUNICATIONS, INC. dba VYVX, INC.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

RETURN RECORDED DOCUMENT TO:  
Williams Communications, Inc.  
418 Aviation Blvd., Suite B  
Santa Rosa, CA 95403



GENERAL PUBLIC  
04/11/2000 14:46 DEED  
RECORDING FEE: 44.00

2000034709

OFFICIAL RECORDS OF  
SONOMA COUNTY  
BERNICE A. PETERSON

11



## RIGHT OF WAY AND EASEMENT AGREEMENT

For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledgeable, the undersigned, herein called Grantor (whether one or more), hereby grants, sells, conveys, and warrants unto Williams Communications, Inc., DBA Vyvx, Inc., in California, a Delaware corporation operating as specialized communications common carrier and telephone public utility, whose mailing address is P. O. Box 22067 Tulsa, OK 74121, its successors and assigns, herein called Grantee, a perpetual easement and right of way (hereinafter, together with the rights and privileges herein granted, "Easement"), together with all improvements located thereon, with a width and centerline as indicated below, to locate, survey, construct, maintain, inspect, operate, protect, repair, alter, replace, change the size of, relocate, establish, lay, install, test, substitute, renew, reconstruct, restore, abandon, and remove underground or overground communications system(s) together with necessary underground or overground conduits, cables, wires, underground splicing boxes, and any other appurtenances thereto, at any time or times, or to transmit data or communications for and by others upon and along a route or routes to be selected by Grantee, on, in, over, under, through, and across the following described land (the "Property") located in the County of Sonoma, State of California, to wit:

Across a portion of that property described in the Deed of Gift dated January 6, 1995 and recorded under Document Number 1995-0003506 Official Records of Sonoma County, California; and further shown on Exhibits A and B attached hereto and made a part hereof. (APN# 86-030-022) (APN# 86-010-004)

together with the right of ingress and egress to, from and along the Easement and the right to use gates and existing roads for the aforesaid purposes (Grantee shall and does hereby agree to restore any damage to such lands, gates, or roads caused by its use thereof as described below) and together with temporary easement to provide work space along and adjacent to the Easement as may be reasonably necessary in connection with construction, maintenance, operation, repair, removal, or replacement of the communications system(s).

The exact location of the Easement conveyed by this instrument shall be determined, in the sole discretion of Grantee, by the installation of Grantee's communications system(s) (the Final Easement). Subject to the Grantee's temporary easement rights described above, the Final Easement shall extend for five feet on each side of the centerline of the first working

communications system installed. Upon completion of construction of the communications system placed hereunder, and in no event later than one year from the date of this Agreement, Williams will provide an as-built drawing of the Final Easement and record the same in the office of the Recorder by referencing said legal description specifically to this instrument in a "Notice of Final Description" in a form attached hereto as Exhibit C and made a part hereof.

Grantee shall restore the surface of the Final Easement and temporary easement as nearly as reasonably practical to its original grade and level after performing any construction or other work that disturbs the surface. Grantee shall cause reasonable payment to be made for actual damages to crops, timber, livestock, and improvements of Grantor directly resulting from the exercise, now or in the future, of the rights herein granted; provided, however, that Grantee may elect, at Grantee's sole option, to restore crops, timber, livestock, or improvements to the pre-existing or equivalent or better condition (or replace fencing with gates) in lieu of paying damages; and provided further that after a communications system(s) has been constructed hereunder, Grantee shall not be liable for damages caused to trees, undergrowth and brush removed from the Final Easement by Grantee.

All oil, gas, and other minerals are reserved to Grantor, provided that Grantor shall not use, nor permit the use of, a method of extraction that interferes with or impairs in any way the exercise of Grantee's rights herein or the operation of Grantee's facilities. Grantor shall have the right use and enjoy the above described premises except that the Grantors shall not interfere with or impair or permit other to interfere with or impair in any way the exercise of the rights herein granted to Grantee or the operation of the Grantee's facilities. Further, Grantee shall have the right from time-to-time to cut and keep clear obstructions or vegetation that may injure, endanger, or interfere with the use, maintenance, or inspection of the communications system(s).

Grantor shall not nor shall Grantor permit others to construct, create, or maintain any road, reservoir, excavation, obstruction, structure, building, or improvement of any kind, or change the land grade on, over along, or across the area of the Final Easement without the prior written consent of the Grantee (which shall not be unreasonable withheld).

Grantor agrees to keep the amount of compensation Grantee paid to acquire the Final easement strictly confidential and to not disclose that amount to any third parties.

Subject to the terms hereof, Grantee shall have other rights and benefits necessary or useful to the full and complete enjoyment and use of the Final Easement for the purposes stated herein.

The terms and provisions of this Agreement shall constitute covenants running with the land and shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns, personal representatives, devisees and heirs.

The instrument fully sets forth the terms and conditions of the Agreement. There is no prior or contemporaneous oral or other written agreements, between Grantor and Grantee that modify, alter, or amend this Agreement. This instrument may be modified or amended only in writing duly executed and acknowledged by the parties hereto.

Grantee may apportion and assign, lease, or transfer this Final Easement in whole or in part.

TO HAVE AND TO HOLD the Final Easement, temporary easement, rights and privileges unto Grantee, its successors and assigns forever, and Grantor hereby binds Grantor, Grantor's heirs, devisees, personal representatives, successors, assigns, or to warrant and forever defend all and singular the Final Easement, temporary easement, and the property rights, privileges, interests above-described, unto Grantee, its successors and assigns, against every person whomsoever claiming or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF THE 11<sup>th</sup> day of April, 2000

GRANTOR:

Gregory W. Herrick  
Gregory W. Herrick

WITNESS:

Lucas R. Umagay

Tract No. CA-SO-092

State of CaliforniaCounty of SonomaOn April 11, 2000 before me Leslie S. McCrary, Notary Public  
Name and Title of Officerpersonally appeared Gregory W. Herrick  
Name of Signer☒ personally known to me

OR

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

WITNESS my hand and official seal.

Leslie S. McCrary  
Signature of Notary Public



## EXHIBIT "A"

## COMMUNICATIONS SYSTEM EASEMENT DESCRIPTION

Being a strip of land over a portion of the lands of Gregory W. Herrick and Shirlee Zane-Herrick, situated in the Rancho Sotoyome, County of Sonoma, State of California, as described in Document No. 1995-0003506, Official Records of Sonoma County, said easement more particularly described as follows:

Beginning at the most northerly corner of Parcel Two of said Document, said point being the most southerly corner of that certain parcel described in Corporation Grant Deed recorded in Book 1781 at Page 108, Official Records of Sonoma County, described as Parcel One and a point on the Right of Way of the State of California Highway 101 as shown on that certain map titled Right of Way Record Map on file at the Sonoma County Public Works Department under Serial No. 036258;

Thence leaving said Right of Way, along the westerly boundary of said Parcel Two, S 02°43'30" W, 65.68 feet;

Thence S 67°06'34" E, 244.22 feet;

Thence S 58°17'26" E, 175.00 feet;

Thence S 54°51'15" E, 497.72 feet;

Thence S 44°40'30" E, 158.60 feet to the northwesterly boundary of that certain parcel of land owned by the Gregory Herrick Trust, et al as described in Document No. 1998-0025990;

Thence along said northwesterly boundary, N 69°22'30" E, 21.90 feet to Point A, which point is the intersection of said northwesterly boundary and the Southwesterly boundary line of the State Freeway IV-Son-101, herein referred to as on the Right of Way of the State of California Highway 101 as shown on that certain map titled Right of Way Record Map on file at the Sonoma County Public Works Department under Serial No. 036258, Thence lying contiguous to and along said southwesterly boundary the following courses and distances;

N 44°40'30" W, 169.31 feet;

N 54°51'15" W, 500.10 feet;

N 58°17'26" W, 448.77 feet to the Point of Beginning.

(continues)

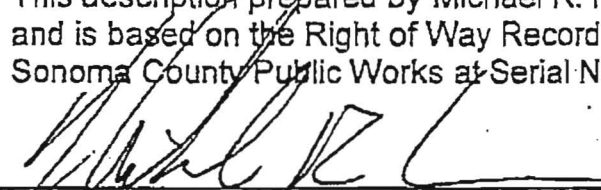


Excepting therefrom that portion of the herein described easement which lies within Parcel Two and Three as described in Document No. 1995-0003506

Containing 0.025 acres

Over Assessor's Parcel No. 086-030-022

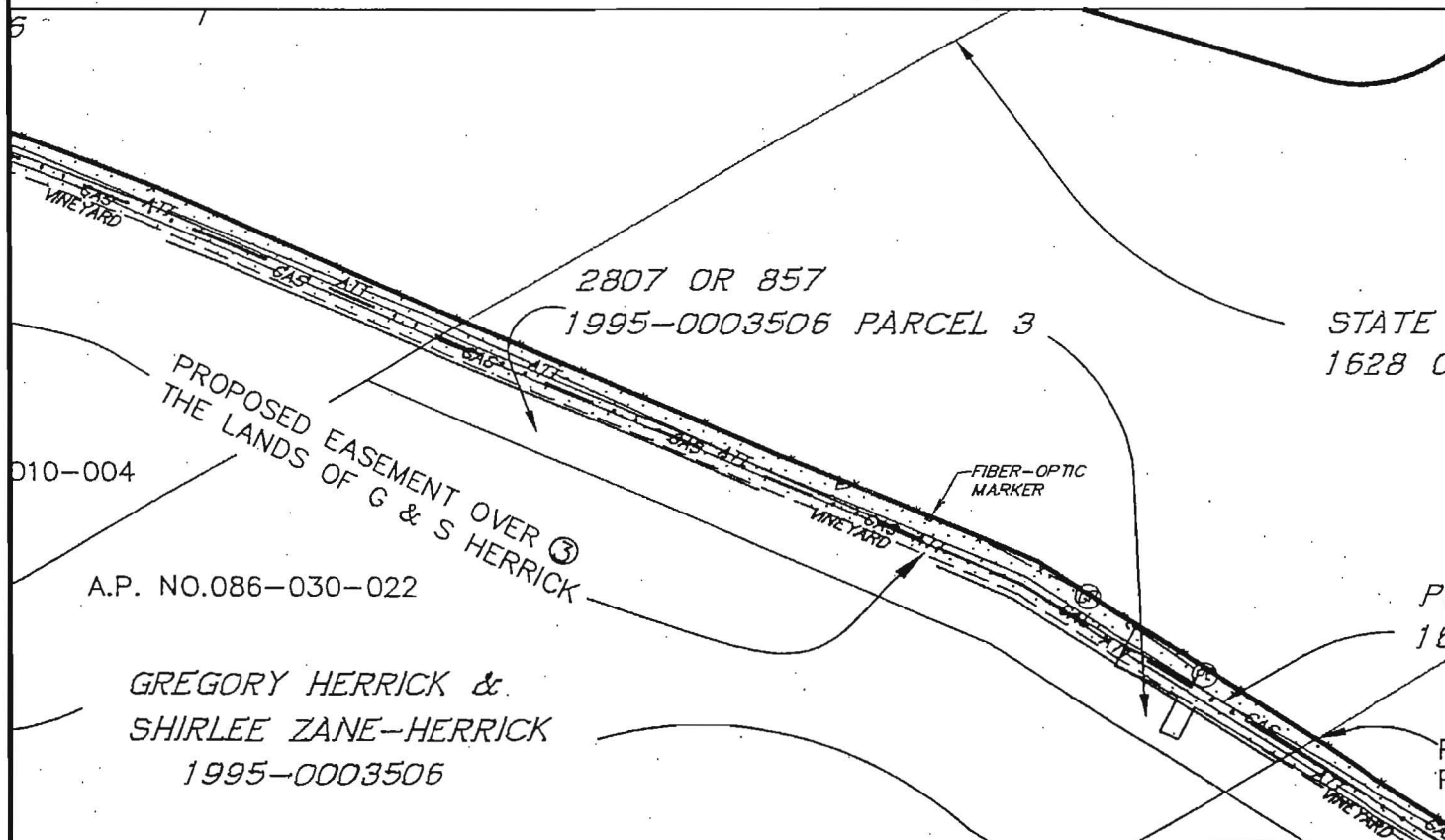
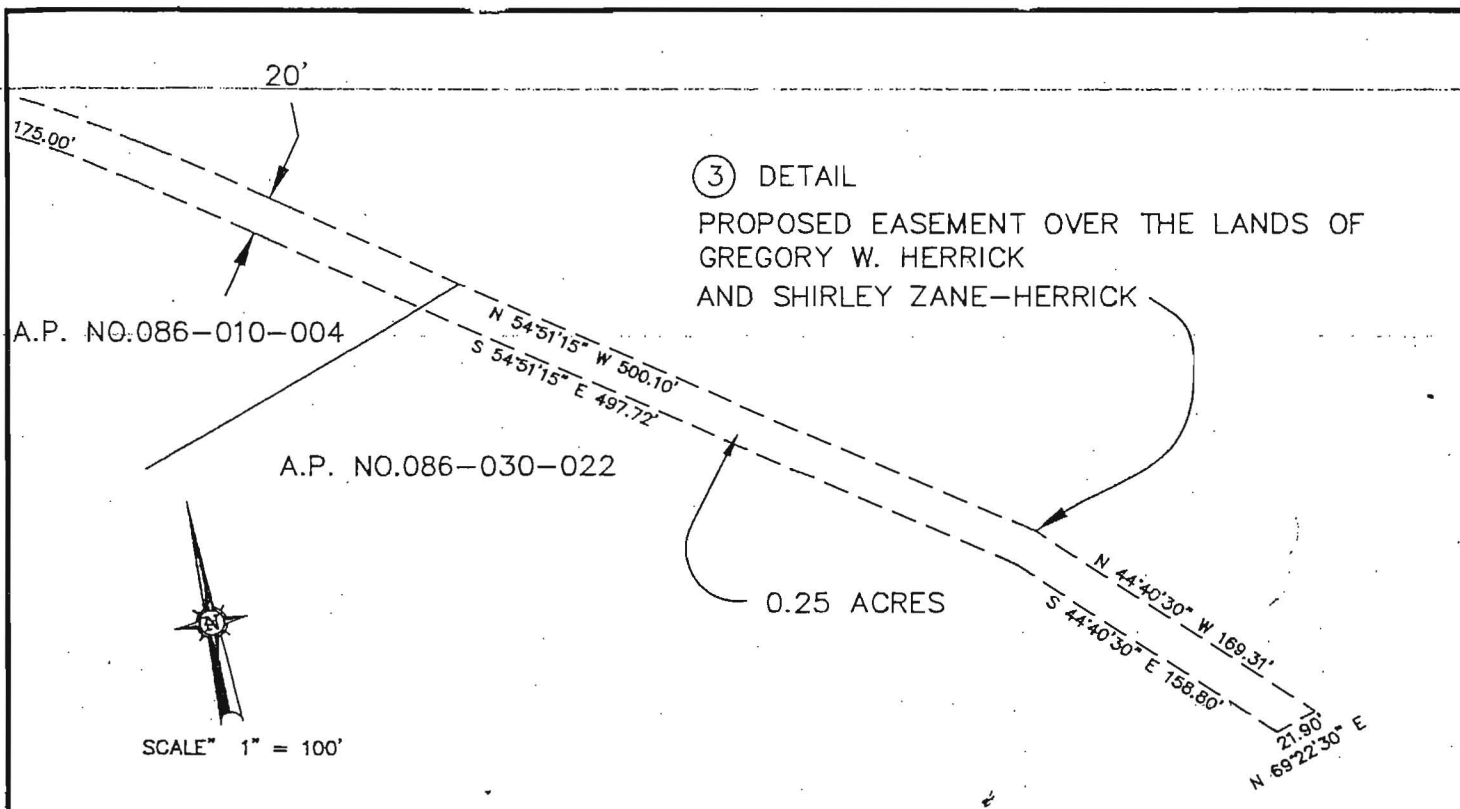
This description prepared by Michael R. Hogan, PLS 7362 in December, 1999, and is based on the Right of Way Record Map R119A.2, filed in the office of Sonoma County Public Works at Serial No. 036259.

  
Michael R. Hogan, PLS 7362

12/23/99  
Date

END OF DESCRIPTION





**HOGAN - FORD**  
LAND SURVEYING

8910 Sonoma Highway Ph.(707)833-8488  
Kenwood, CA 95462 Fax(707)833-8744



PLAT OF EASEMENTS  
OVER THE LANDS OF  
GREGORY HERRICK & SHIRLEE ZANE-HERRICK  
A.P. NO. 086-030-022  
PREPARED FOR:  
WILLIAMS COMMUNICATIONS, INC.

EXHIBIT

## COMMUNICATIONS SYSTEM EASEMENT-DESCRIPTION

Being a strip of land over a portion of the lands of Gregory W. Herrick and Shirlee Zane-Herrick, situated in the Rancho Sotoyome, County of Sonoma, State of California, as described in Document No. 1995-0003506, Official Records of Sonoma County, said easement more particularly described as follows:

Beginning at the most northerly corner of Parcel Two of said Document, said point being the most southerly corner of that certain parcel described in Corporation Grant Deed recorded in Book 1781 at Page 108, Official Records of Sonoma County, described as Parcel One and a point on the Right of Way of the State of California Highway 101 as shown on that certain map titled Right of Way Record Map on file at the Sonoma County Public Works Department under Serial No. 036258;

Thence leaving said Right of Way; along the westerly boundary of said Parcel Two, S 02°43'30" W, 65.68 feet;

Thence S 67°06'34" E, 244.22 feet;

Thence S 58°17'26" E, 175.00 feet;

Thence S 54°51'15" E, 497.72 feet;

Thence S 44°40'30" E, 158.60 feet to the northwesterly boundary of that certain parcel of land owned by the Gregory Herrick Trust, et al as described in Document No. 1998-0025990;

Thence along said northwesterly boundary, N 69°22'30" E, 21.90 feet to Point A, which point is the intersection of said northwesterly boundary and the Southwesterly boundary line of the State Freeway IV-Son-101, herein referred to as on the Right of Way of the State of California Highway 101 as shown on that certain map titled Right of Way Record Map on file at the Sonoma County Public Works Department under Serial No. 036258, Thence lying contiguous to and along said southwesterly boundary the following courses and distances;

N 44°40'30" W, 169.31 feet;

N 54°51'15" W, 500.10 feet;

N 58°17'26" W, 448.77 feet to the Point of Beginning.

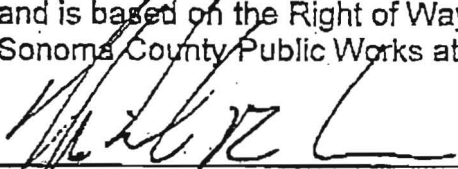
(continues)

Excepting therefrom that portion of the herein described easement which lies within Parcel One as described in Document No. 1995-0003506

Containing 0.37 acres

Over Assessor's Parcel No. 086-010-004

This description prepared by Michael R. Hogan, PLS 7362 in December, 1999, and is based on the Right of Way Record Map R119A.2, filed in the office of Sonoma County Public Works at Serial No. 036259.

  
Michael R. Hogan, PLS 7362

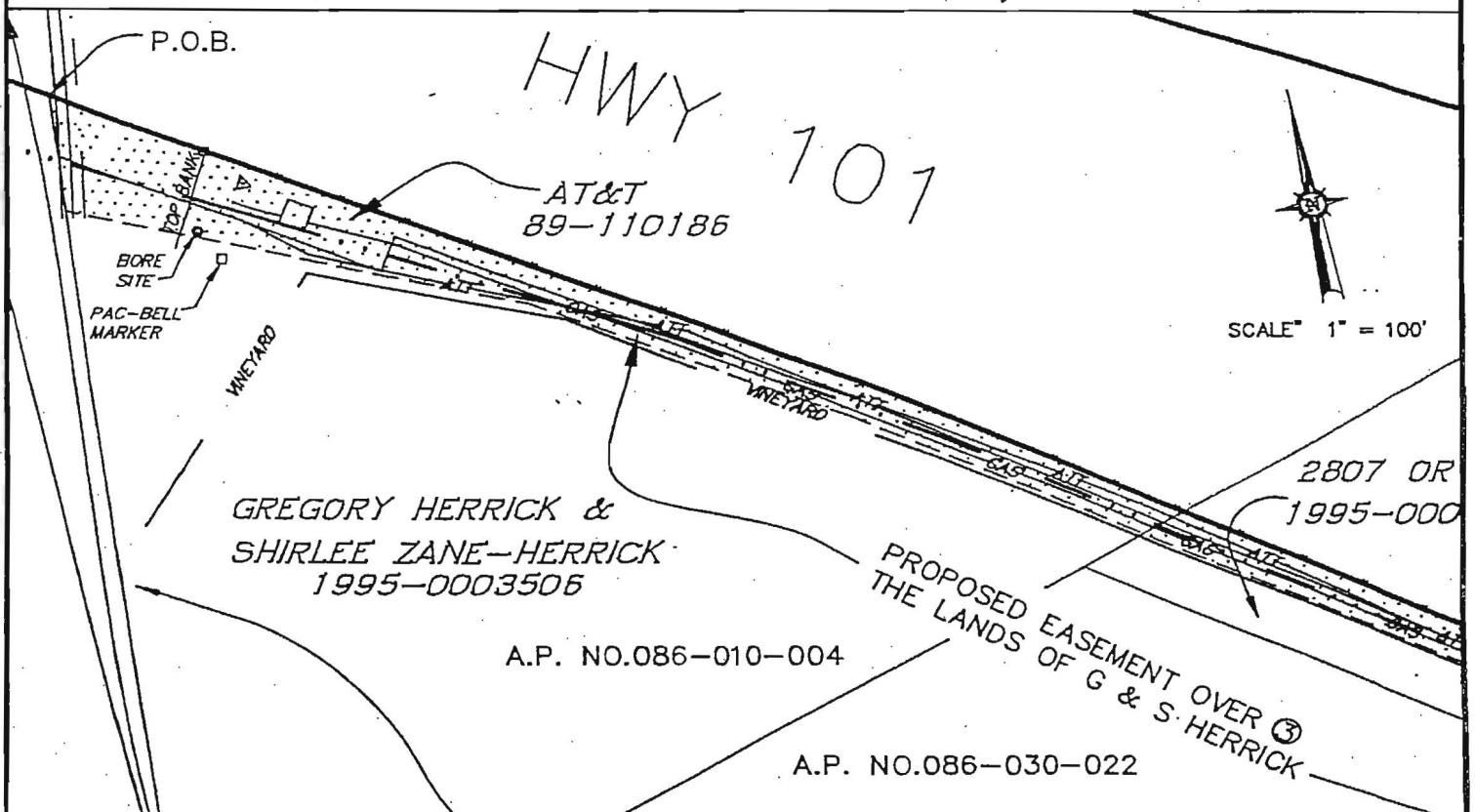
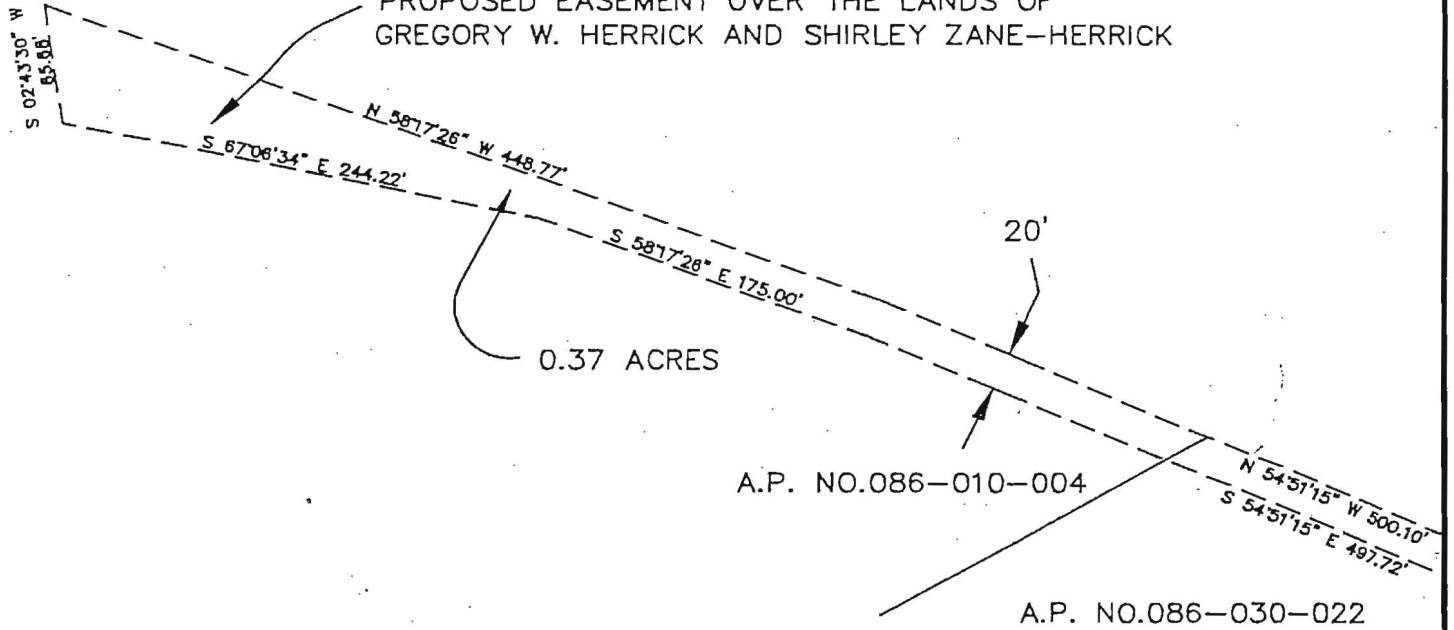
12/23/99  
Date

END OF DESCRIPTION



③ DETAIL

PROPOSED EASEMENT OVER THE LANDS OF  
GREGORY W. HERRICK AND SHIRLEY ZANE-HERRICK



HOGAN - FORD

LAND SURVEYING

5910 Sonoma Highway Ph. (707) 633-5488  
Kenwood, CA 94942 Fax (707) 633-5744



PLAT OF EASEMENT

OVER THE LANDS OF

GREGORY HERRICK & SHIRLEE ZANE-HERRICK

A.P. NO. 086-010-004

PREPARED FOR:

WILLIAMS COMMUNICATIONS, INC.

EXHIBIT C

## RETURN RECORDED DOCUMENT TO:

Williams Communications, Inc.  
418 Aviation Blvd., Suite B  
Santa Rosa, California 95403

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Space above this line for recorder's use only.NOTICE OF FINAL DESCRIPTION

This document is being recorded in fulfillment of those conditions as set forth in that certain RIGHT OF WAY AND EASEMENT AGREEMENT from Gregory W. Herrick as Grantor to WILLIAMS COMMUNICATION, INC., DBA Vyvx, Inc., in California, a Delaware Corporation operating as a specialized communications common carrier and telephone public utility, as Grantees dated \_\_\_\_\_, and recorded at \_\_\_\_\_ of the Official Records of Sonoma County, State of California (the "Easement" herein).

Pursuant to those rights conveyed to Grantee by said Easement, Grantee does hereby further define the centerline location of that ten (10) foot wide strip of land referred to in said Easement as follows:

Being an easement ten (10.00) feet in width for the installation of communication facilities within the hereinafter described strip across a portion of that property described in the Deed of gift dated January 6, 1995 and recorded under Document Number 95-0003506, Official Records, Sonoma County, California; and further shown on Exhibit A and B attached to and made a part of said Easement.

Said strip is described as follows:

[INSERT STRIP DESCRIPTION HERE]

Nothing herein contained shall, or shall be construed to, modify in any way or terminate any of the covenants, terms, conditions or provisions under and by virtue of said Easement in the land therein described.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2000 at \_\_\_\_\_.

WILLIAMS COMMUNICATIONS, INC. dba VYVX, INC.

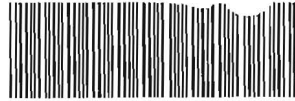
By: \_\_\_\_\_  
Title: \_\_\_\_\_

RETURN RECORDED DOCUMENT TO:

Williams Communications, Inc.

916 Shiloh Rd., Bldg. 1

Windsor, CA 94592



GENERAL PUBLIC  
06/29/2000 12:58 DEED  
RECORDING FEE: 32.00  
COUNTY TAX: 1.10

2000064691

OFFICIAL RECORDS OF  
SONOMA COUNTY  
BERNICE A. PETERSON

7



\$1.10 T.T. County  
Unincorporated.

**RIGHT OF WAY AND EASEMENT AGREEMENT**

For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledgeable, the undersigned, herein called Grantor (whether one or more), hereby grants, sells, conveys, and warrants unto Williams Communications, Inc., DBA Vyvx, Inc., in California, a Delaware corporation operating as specialized communications common carrier and telephone public utility, whose mailing address is P. O. Box 22067 Tulsa, OK 74121, its successors and assigns, herein called Grantee, a perpetual easement and right of way (hereinafter, together with the rights and privileges herein granted, "Easement"), together with all improvements located thereon, with a width and centerline as indicated below, to locate, survey, construct, maintain, inspect, operate, protect, repair, alter, replace, change the size of, relocate, establish, lay, install, test, substitute, renew, reconstruct, restore, abandon, and remove underground or overground communications system(s) together with necessary underground or overground conduits, cables, wires, underground splicing boxes, and any other appurtenances thereto, at any time or times, or to transmit data or communications for and by others upon and along a route or routes to be selected by Grantee, on, in, over, under, through, and across the following described land (the "Property") located in the County of Sonoma, State of California, to wit:

Across a portion of that property described in Parcel Four (4) in Grant Deed dated October 29, 1979 and recorded in Book 3647 Page 810 of the Official Records of Sonoma County, California; and further shown on Exhibit A attached hereto and made a part hereof. (APN# 88-190-038)

together with the right of ingress and egress to the easement by and through the existing easements on the Property to, from and along the Easement and the right to use gates and existing roads for the aforesaid purposes (Grantee shall and does hereby agree to restore any damage to such lands, gates, or roads caused by its use thereof as described below) and together with temporary easement to provide work space along and adjacent to the Easement as may be reasonably necessary in connection with construction, maintenance, operation, repair, removal, or replacement of the communications system(s).

The location of the Easement conveyed by this instrument shall be the location described in Exhibit A and is subject to the Grantee's temporary easement rights described above. The Easement shall extend for five feet on each side of the centerline of the first working communications system installed, but shall not extend beyond the limits of the "Property."



Grantee shall restore the surface of the Easement and temporary easement as nearly as reasonably practical to its original grade and level after performing any construction or other work that disturbs the surface. Grantee shall cause reasonable payment to be made for actual damages to crops, timber, livestock, and improvements of Grantor directly resulting from the exercise, now or in the future, of the rights herein granted; provided, however, that Grantee may elect, at Grantee's sole option, to restore crops, timber, livestock, or improvements to the pre-existing or equivalent or better condition (or replace fencing with gates) in lieu of paying damages; and provided further that after a communications system(s) has been constructed hereunder, Grantee shall not be liable for damages caused to trees, undergrowth and brush removed from the Easement by Grantee.

All oil, gas, and other minerals are reserved to Grantor, provided that Grantor shall not use, nor permit the use of, a method of extraction that interferes with or impairs in any way the exercise of Grantee's rights herein or the operation of Grantee's facilities. Grantor shall have the right use and enjoy the above described premises except that the Grantors shall not interfere with or impair or permit other to interfere with or impair in any way the exercise of the rights herein granted to Grantee or the operation of the Grantee's facilities. Further, Grantee shall have the right from time-to-time to cut and keep clear obstructions or vegetation that may injure, endanger, or interfere with the use, maintenance, or inspection of the communications system(s).

Grantor shall not nor shall Grantor permit others to construct, create, or maintain any road, reservoir, excavation, obstruction, structure, building, or improvement of any kind, or change the land grade on, over along, or across the area of the Easement without the prior written consent of the Grantee (which shall not be unreasonable withheld).

Subject to the terms hereof, Grantee shall have other rights and benefits necessary or useful to the full and complete enjoyment and use of the Easement for the purposes stated herein.

The terms and provisions of this Agreement shall constitute covenants running with the land and shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns, personal representatives, devisees and heirs.

The instrument fully sets forth the terms and conditions of the Agreement. There is no prior or contemporaneous oral or other written agreements, between Grantor and Grantee that modify, alter, or amend this Agreement. This instrument may be modified or amended only in writing duly executed and acknowledged by the parties hereto.

Grantee may apportion and assign, lease, or transfer this Easement in whole or in part.

TO HAVE AND TO HOLD the Easement, temporary easement, rights and privileges unto Grantee, its successors and assigns forever, and Grantor hereby binds Grantor, Grantor's heirs, devisees, personal representatives, successors, assigns, or to warrant and forever defend all and singular the Easement, temporary easement, and the property rights, privileges, interests above-described, unto Grantee, its successors and assigns, against every person whomsoever claiming

or to claim the same or any part thereof.

WITNESS THE EXECUTION HEREOF THE 27<sup>th</sup> day of June, 2000

GRANTOR: Frank Carraro  
Frank Carraro

GRANTOR: Lena Carraro  
Lena Carraro

WITNESS: Walter A. Brooks

WITNESS: Walter A. Brooks

Tract No. CA-SO-090

State of CALIFORNIA

County of SAN FRANCISCO

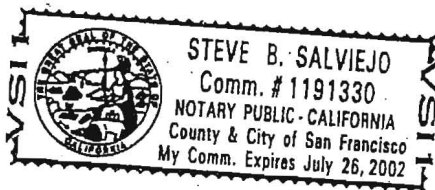
On JUNE 27<sup>th</sup>, 2000 before me STEVE B. SALVIEJO  
Name and Title of Officer

personally appeared FRANK AND LENA CARRARO  
Name of Signer

~~personally known to me~~

OR

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



WITNESS my hand and official seal.

[Signature]  
Signature of Notary Public

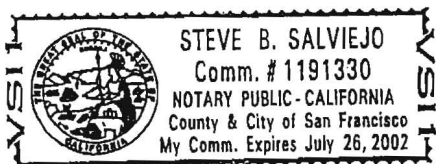
(Subscribing Witness)  
Acknowledgement

STATE OF: CALIFORNIA }  
COUNTY OF: SAN FRANCISCO } SS

On JUNE 27, 2000, before me, the undersigned, a public notary for the State personally appeared STEVE B. SALVIEJO, personally known to me (or proved me on the oath of MARIA A. BRODKE who is personally known to me) to be the person whose name is subscribed to the within instrument, as a witness thereto, who being by me duly sworn, deposed and said that he/she was present and saw FRANK CARRARO and LINA CARRARO the same person(s) described in and whose name(s) is/are subscribed to the within and annexed instrument in his/her/their authorized capacity(ies) as (a) party thereto, execute the same, and that said affiant subscribed his/her name to the within instrument as a witness at the request of FRANK CARRARO and LINA CARRARO.

Witness my hand official seal.

My Commission Expires: 7/26/2002  
Notary Public, State of CALIFORNIA



## EXHIBIT "A"

## COMMUNICATIONS SYSTEM EASEMENT DESCRIPTION

Being a strip of land over a portion of the lands of Lena and Frank Carraro situated in the Sotoyome Rancho, County of Sonoma, State of California, as described in that certain Grant Deed recorded in Book 3647 at Page 810, Official Records of Sonoma County, being a portion of Parcel Four in said Grant Deed, said easement more particularly described as follows:

Beginning at the northwesterly corner of that certain parcel of land conveyed to Pacific Gas and Electric Company from John and Georgia Minaglia in January, 1966 and described in that certain deed recorded in Book 2184 at Page 897, Official Records of Sonoma County, and lying contiguous to and southwesterly of the southwesterly boundary line of said parcel, the following courses and distances:

S 50°57'13" E, 28.19 feet;

S 35°07'43" E, 275.11 feet;

S 77°48'05" E, 30.06 feet to a point on the northwesterly boundary of the Lands of Syar Industries, as said lands are described in Document No. 1986-014193, Official Records of Sonoma County;

Thence along said northwesterly boundary, S 66°35'00", 31.02 feet to a point which bears N 66°35'00" E, 1.31 feet from a ¾" iron pipe monument tagged RCE 28167, as shown on that certain Record of Survey filed in Book 453 at Page 49, Official Records of Sonoma County;

Thence N 35°07'43" W, 289.53 feet;

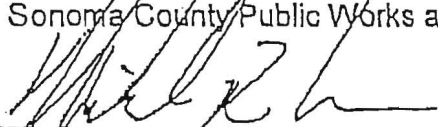
Thence N 50°57'13" W, 19.87 feet;

Thence N 04°18'04" E, 12.17 feet to the Point of Beginning.

Containing 0.08 acres

Over Assessor's Parcel No. 088-190-038

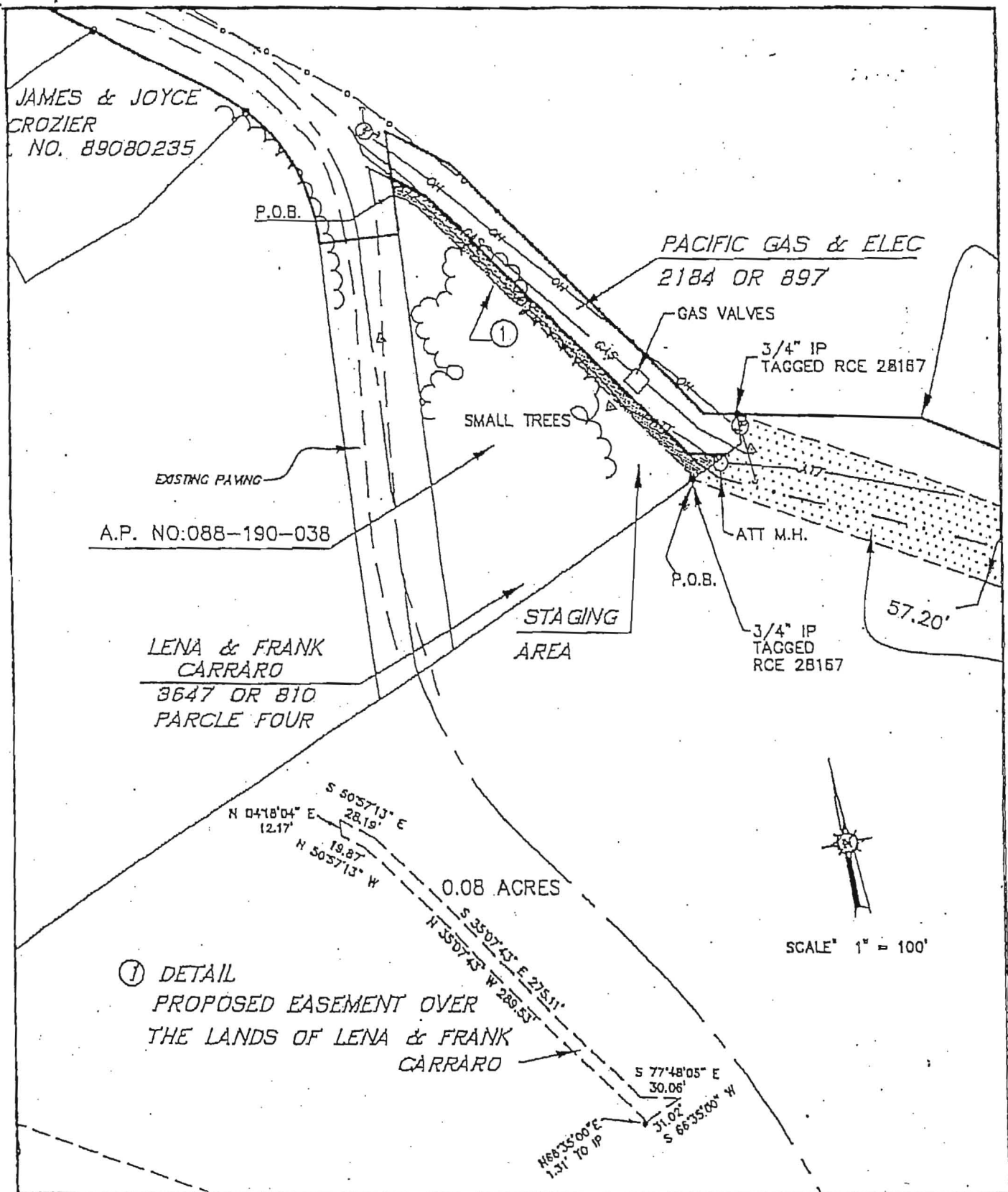
This description prepared by Michael R. Hogan, PLS 7362 in December, 1999, and is based on the Right of Way Record Map R119A.2, filed in the office of Sonoma County Public Works at Serial No. 036259.

  
Michael R. Hogan, PLS 7362

12/23/99  
Date

END OF DESCRIPTION





**HOGAN - FORD**  
LAND SURVEYING  
8910 Sonoma Highway Ph. (707) 833-8488  
Kenwood, CA 94923 Fax (707) 833-8744



**PLAT OF EASEMENT**  
OVER THE LANDS OF  
**LENA & FRANK CARRARO**  
A.P. NO. 088-190-038  
PREPARED FOR:  
**WILLIAMS COMMUNICATIONS, INC.**

18218 - CADD001

RETURN RECORDED DOCUMENT TO:

Williams Communications, Inc.  
418 Aviation Blvd., Suite B  
Santa Rosa, California 95403



GENERAL PUBLIC  
04/07/2000 14:44 DEED  
RECORDING FEE: 56.00

2000033709

OFFICIAL RECORDS OF  
SONOMA COUNTY  
BERNICE A. PETERSON

15



Space above this line for recorder

## RIGHT OF WAY AND EASEMENT AGREEMENT

*Consideration Less Than 500.00*

### Section 1. Parties

1.1 This Right of Way and Easement Agreement ("**Agreement**") is made between Syar Industries, Inc. ("**Syar**") and Williams Communications, Inc., doing business as Vyvx Inc. in California, a Delaware corporation, operating as a specialized communications common carrier and telephone public utility ("**Williams**").

### Section 2. Recitals

2.1 Syar is the record owner of the certain real property in Sonoma County, California, to wit:

Parcel Fourteen (14), Tract Two (2) in corporation Grant Deed dated February 28, 1986 and recorded as Document No. 86014193, Official Records, Sonoma County, California (APN# 088-190-028) (the "**Property**");

and other real property in and around the location of the Property.

2.2 Williams, for itself, and its successors and assigns, desires to acquire from Syar an easement on a portion of the Property to locate, survey, construct, maintain, inspect, operate, protect, repair, alter, replace, establish, lay, install, test, substitute, renew, reconstruct, restore, abandon, and remove an underground fiber optic cable and related and associated underground equipment (the "**Communications System**") as part of an expansion of its data transmission network. Williams desires a temporary easement on the Property, at a location to be determined by Williams, for the purposes of locating, surveying and constructing the initial Communications System (the "**Temporary Easement**") and upon completion of construction of the Communications System, Williams desires a permanent easement on the Property that is a ten (10) foot strip having a center line at the actual location of the completed Communications System within which Williams may maintain, inspect, operate, protect, repair, alter, replace, change the size of, relocate, establish, lay, install, test, substitute, renew, reconstruct, restore, abandon, and remove the Communications System (the "**Final Easement**"). Collectively, the Temporary Easement and Final Easement, together with the rights and privileges herein granted, are referred to in this document as the "**Easement**." Exhibit A and Exhibit B, attached hereto and made a part hereof, are plats of the potential locations of the Temporary Easement in the Property pursuant to Section 3.2, below, with the location of the Final Easement in the Property to be determined pursuant to Section 3.3, below.



2.3 Syar is willing to grant Williams the Easement, for the consideration, and on the terms and conditions of this Agreement, provided that Williams acknowledges the following facts concerning Syar's current and possible future uses of the Property, all of which Williams acknowledges and agrees to as evidenced by Williams' execution of this Agreement:

2.3.1 Syar is the owner of a haul road used in its aggregate mining operations which crosses or may cross the Easement ("**Haul Road**"). The Haul Road connects Syar's aggregate mining sites downstream of the location of the Easement to Syar's aggregate processing plant upstream of the Easement. Syar uses the haul road for the transportation of personnel, aggregate, and equipment, including but not limited to use by aggregate hauling trucks weighing in excess of fifty (50) tons and at various times making in excess of one hundred fifty (150) runs a day between the mining site and processing plant.

2.3.2 Syar is the owner of a pipeline used in its aggregate mining operations which crosses or may cross the Easement ("**Pipeline**"). Syar currently uses the Pipeline to transport byproducts from the processing of aggregates, including a slurry of water and fine particulate matter, from Syar's processing plant to Syar's aggregate mining sites for use in reclamation; in the future Syar may make other uses of the Pipeline, which may or may not be related to its mining operations. Syar requires access to the Pipeline for maintenance and repair activities and for possible future replacement or relocation.

2.3.3 Both the Haul Road and the Pipeline are essential and integral components of Syar's current and future operations. Any disruption of their use by Williams would result in a significant interference with Syar's business, as well as possible permit violations for Syar's operations, and cause substantial economic loss to Syar. For these reasons and others, Syar cannot have the Haul Road or Pipeline disturbed or affected in any manner because of the use or presence of the Easement or Communications System or the exercise of the rights granted in this Agreement.

2.3.4 Syar anticipates making use of the property in and around the Easement, including but not limited to the removal of aggregates and other materials and the planting of riparian vegetation for channel maintenance, restoration, improvement, and reclamation, and Syar desires to avoid any disruption or interference with those operations from the use or presence of the Easement or Communications System or the exercise of the rights granted under this Agreement.

2.3.5 Syar and Syar's predecessors in interest have previously granted easements and other interests in the Property in the same vicinity as the Easement, including but not limited to the interests created by the following documents: grant to the Pacific Telephone and Telegraph Company recorded at book 529, page 497, official records of Sonoma County; grant to Pacific Gas and Electric Company recorded at book 2220, page 407 official records of Sonoma County; and the grant to American Telephone and Telegraph Company recorded at 1989.83975 and 1991.20323, official records of Sonoma County.

### Section 3. Grant of Easement

3.1 Grant of Easement. For good and valuable consideration, the receipt of which is hereby acknowledged, Syar hereby grants, sells, and conveys, unto Williams, its successors and assigns, (a) a non-exclusive temporary easement and right of way to locate, survey, construct, lay, install, and test the initial Communications System (defined in Section 2.3, above), together with necessary underground conduits, cables, wires, underground splicing boxes, and any other appurtenances thereto, under, through, and across the Property upon and along a route to be selected by Williams as provided for in Section 3.2, below (the Temporary Easement), and (b) a non-exclusive permanent easement in order to maintain, inspect, operate, protect, repair, alter, replace, change the size of, relocate, establish, lay, install, test, substitute, renew, reconstruct, restore, abandon, and remove the Communications System within a location to be determined in accordance with Section 3.3, below (the Final Easement).

#### 3.2 Placement of the Communications System.

3.2.1 In the event that Williams does not gain permission to place the Communications System on the Highway 101 Bridge, the location of the Temporary Easement shall be as shown in Exhibit A. Williams shall place the Communications System in the location of the Temporary Easement underground, and in no event shall Williams disturb or interfere with the Haul Road and/or Pipeline or disturb or interfere with Syar's use of the Haul Road and/or Pipeline. The Communications System shall be located a minimum of ten (10) feet in depth below existing grade in order to avoid any disturbance of the Haul Road and/or Pipeline or interfere with current and future uses of the Property. Said Communications System shall be placed at least ten (10) feet below the lowest point of the bed of the Russian River located within the Property, such depth to be determined at time of construction and established by reference to a benchmark. In no event shall Williams have any rights above the location of said Communications System except as may be necessary for periodic repair or maintenance pursuant to the Final Easement.

3.2.2 In the event that Williams gains permission to place the Communications System on the Highway 101 bridge, the location of the Temporary Easement shall be as shown on Exhibit B. The Communications System shall be placed in the location of the Temporary Easement no less than three (3) feet under the existing grade, except where attached to the Highway 101 Bridge. In no event shall Williams disturb or interfere with the Haul Road and/or Pipeline or disturb or interfere with Syar's use of the Haul Road and/or Pipeline. In no event shall Williams have any rights above the location of said Communications System except as may be necessary for periodic repair or maintenance pursuant to the Final Easement.

3.3 Final Easement. The location of the Final Easement shall be determined by the actual location of the Communications System installed pursuant to the Temporary Easement, and shall extend for five (5) feet on each side of the centerline of the first working Communications System installed. Upon completion of construction of the Communications System placed hereunder, and in no event later than one year from the date of this Agreement, Williams shall provide a properly surveyed centerline legal description by metes and bounds for said strip of land and record the same in the office of the Recorder by referencing said legal

description specifically to this instrument in a "Notice of Final Description," in form attached hereto as Exhibit C and made a part hereof, and said Notice shall by that reference be considered an appendix to and be made a part hereof. In the event construction of the first Communications System has not been completed within one (1) year of the date of this Agreement, all rights granted hereunder will terminate without the necessity for further action by either party, time being of the essence. Upon the recording of the Notice of Final Description, all right, title, and interest of Williams in the Property except for the Final Easement shall be extinguished and the Temporary Easement shall be terminated.

3.4 Other Rights. The Easement granted to Williams by Syar includes the right to work space for equipment and personnel along and adjacent to the Easement as may be reasonably necessary in connection with the initial placement and construction of the Communications System on the Property and necessary future repair, maintenance, operation, removal, or replacement of the Communications System on the Property, provided, however, in no event shall Williams use in any way the Haul Road or disturb the Pipeline or the surface of the Haul Road without the prior written consent of Syar, which may be withheld in the exercise of Syar's sole and absolute discretion. Williams shall have the right of ingress and egress to, from, and along the Easement and the right to use gates and existing roads, with the exception of the Haul Road, for the aforesaid purposes, and such other rights and benefits necessary or useful to the full and complete enjoyment and use of the Easement for the purposes stated herein, provided however Williams shall give Syar notice of any access to the Property in the manner provided in Section 7.1, below, and provided further Williams shall satisfy the reasonable requirements of Syar that relate to the safe and orderly use of the Property as may be imposed at the time of any such access by Williams.

3.5 Assignment. Williams may apportion and assign, lease, or transfer the Final Easement in whole or in part, provided that Williams shall require any assignee, lessee, or transferee to fully comply with this Agreement.

3.6 Breach. In the event Williams ceases the use of the Easement for the purposes herein granted for a continuous period of two (2) years, then the Easement shall automatically terminate and any later attempt to revive the use so terminated shall be without effect, constitute an abandonment of the Easement, and entitle Syar to terminate the Easement, as well as entitle Syar to any other remedies available to Syar for a breach of this Agreement.

3.7 Termination. At any time after any termination or abandonment of the Easement or termination of this Agreement, then Williams upon the request of Syar shall execute in recordable form a suitable instrument acknowledging said termination for purposes of giving notice to third parties.

#### **Section 4. Rights Reserved**

4.1 All oil, gas, and other minerals are reserved to Syar, provided that Syar shall not use, nor permit the use of, a method of extraction that unreasonably interferes with or impairs the exercise of Williams' rights herein or the operation of Williams' facilities. Syar shall have the right to use and enjoy the Property, including the right to grant interests to third parties in the

Property, except that the Syar shall not unreasonably interfere with or impair the exercise of the rights herein granted to Williams or the operation of Williams' facilities.

4.2 Syar further covenants not to erect or construct, or permit to be erected or constructed, any additional buildings or any additional other structures of a permanent nature within the limits of the Easement without the prior written consent of Williams (which shall not be unreasonably withheld). Syar, its successors, assigns, lessees or agents may construct and maintain fences, surface roads, above and below ground pipelines, utility lines, and conveyor systems on, under, through or over the Easement without obtaining prior written consent from Williams, except that the Syar shall not unreasonably interfere with or impair the exercise of the rights herein granted to Williams or the operation of Williams' facilities. Syar shall comply with the requirements of the Regional Notification Center System (California Government Code Section 4216 et seq. including amendments and successor statutes) as applicable. Williams acknowledges that Syar will be and shall be entitled to continue to drive Syar's equipment (including but not limited to fifty (50) ton gravel hauling trucks) over and across the Easement and Syar shall not be liable for any damage to the property of Williams resulting from such activity.

## **Section 5. Obligation to Repair**

5.1 As an obligation that shall survive the expiration or earlier termination of this Agreement, Williams shall restore the surface of the Property as nearly as reasonably practical to its original grade and level after performing any construction or other work that disturbs the surface. Williams shall cause reasonable payment to be made for actual damages to crops, timber, livestock, and improvements of Syar directly resulting from the exercise, now or in the future, of the rights herein granted.

5.2 As an obligation that shall survive the expiration or earlier termination of this Agreement, Williams shall immediately report to Syar any damage to the Haul Road or Pipeline that is the result of conduct (whether by action or inaction) by Williams, its contractors, agents, or employees, and Syar shall effect repairs to the same condition that existed immediately prior to the time of the damage. If Syar determines such damage has occurred prior to being notified by Williams, Syar shall notify Williams of such damage, and make the necessary repairs, without delay. Williams shall reimburse Syar for all reasonable costs and expenses and overhead incurred by Syar. Time is of the essence for providing the notice and reimbursement provided under this Section.

## **Section 6. Compliance with Laws**

6.1 Williams shall, at Williams' sole cost and expense, comply with any and all present and future laws, statutes, ordinances, rules, regulations, codes, permits, orders, approvals, plans, authorizations, judicial, administrative and regulatory decrees, directives and judgments of all governmental agencies, departments, commissions, and boards which may in any way apply to the use, operation, and occupation of the Easement, and any and all other rights granted to Williams under this Agreement.

## **Section 7. Prior Notice**

7.1 Williams will provide Syar at least five (5) days notice prior to commencement of any activities in or around the Easement, in order to give Syar time to coordinate its operations in this area with those of Williams.

## **Section 8. Indemnity**

8.1 It is understood and agreed that Syar shall not be liable for injury to any person, or for the loss of or damage to any property (including property of Williams, its contractors or assigns) occurring in or about the Easement, except for injury, loss or damage caused by Syar's negligence or willful misconduct. Nothing in this Section 8.1 is intended to expand or limit Williams' liability under law for its acts of omissions or those of its agents, employees or contractors or to expand or limit Williams' obligations under this Agreement.

8.2 To the extent permitted by law, Williams shall indemnify and hold Syar, its officers, directors, employees, agents and contractors harmless from and against any and all losses, costs, claims, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees, damages (including diminution in value and consequential damages), liabilities or causes of action (collectively, "**Claims**") proximately caused by (a) any breach or default in the performance of any obligation on Williams' part to be performed under the terms of this Agreement; (b) any act of negligence of Williams, or any officer, contractor, agent, employee, guest, and/or invitee of Williams; and/or, (c) any of the activities or operations of Williams or its contractors, agents, or employees on or about the Easement, including but not limited to Claims based in whole or in part on the construction, maintenance, and repair of the Communications System or the presence or threatened or suspected presence, generation, processing, use, management, treatment, storage, disposal, transportation, recycling, emission or release or threatened emission or release of any hazardous substances for which Williams, or its agents, employees, or contractors, are responsible. Williams and Syar acknowledge that the foregoing duty to indemnify and hold harmless includes the duty to defend set forth in Civil Code Section 2778. The foregoing indemnity shall survive the expiration or earlier termination of this Agreement and the Easement granted hereunder with respect to any Claims arising under this Agreement.

## **Section 9. Miscellaneous.**

9.1 Bounds Successors, Assigns, and Heirs. The terms and provisions of this Easement shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns, personal representatives, devisees and heirs.

9.2 Complete Agreement. The instrument fully sets forth the terms and conditions of the Easement. There is no prior or contemporaneous oral or other written agreements, between Syar and Williams that modify, alter, or amend the Easement. This instrument may be modified or amended only in writing duly executed and acknowledged by the parties hereto.

9.3 Attorneys' Fees. In the event legal action is taken by any party against the other party to the Easement, the prevailing party shall be entitled to all costs incurred and its attorney's fees.

9.4 Notice. Any notice or other communication require or permitted under this Agreement shall be in writing and shall be either personally delivered, transmitted by facsimile or transmitted by registered or certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

Syar: James M. Syar, President  
Syar Industries, Inc.  
P.O. Box 2540  
2301 Napa-Vallejo Highway  
Napa, CA 94558  
Telephone: (707) 252-8711  
Facsimile: (707) 224-5932

Williams: Christy Wallace  
ROW Project Manager  
Fiber Services  
Williams Communications, Inc.  
P.O. Box 22064  
Tulsa, Oklahoma 74121-2064  
Telephone: (918) 573-4408  
Facsimile: (918) 573-8967

The date of notice or communication shall be deemed to be the date of receipt if delivered personally, the date of receipt with confirmed answer back is transmitted by facsimile and received during business hours (or otherwise on the next business day) or the date of the receipt or refusal of delivery if transmitted by mail. Any party may change the address for notice by giving notice to the other party in accordance with this Section.



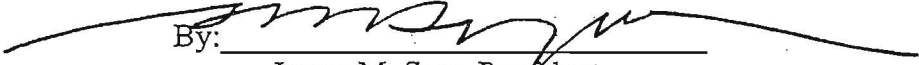
9.5 Exhibits. The following exhibits are attached hereto and made a part hereof:

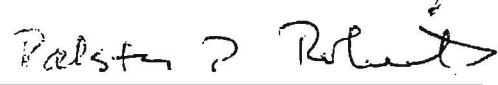
Exhibit A: Plat of Easement (Not using Highway 101 bridge)  
Exhibit B: Plat of Easement (Using Highway 101 bridge)  
Exhibit C: Notice of Final Description (Sample)

**Section 10. Execution**


10.1 Each individual executing this Right of Way and Easement Agreement represents and warrants that he or she is duly authorized to make this Right of Way and Easement Agreement. Executed this 6<sup>th</sup> day of April, 2000, at Napa, California.

SYAR:  
SYAR INDUSTRIES, INC.

By:   
James M. Syar, President

By:   
Ralston P. Roberts, Secretary

WILLIAMS:  
WILLIAMS COMMUNICATIONS, INC. DBA VYVX, INC.

By:   
Title: PROJECT SUPERVISOR

Tract No. CA-SO-091

S:\SONOMA COUNTY [19]\Easements [19-03]\Williams [007]\Final Easement 04.05.00.lwp



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

No. 5907

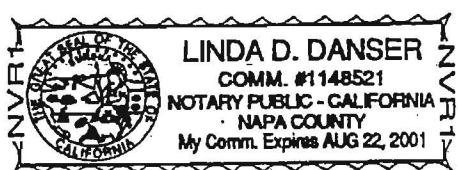
State of California

County of Napa

On April 6, 2000 before me, Linda D. Danser, Notary Public

personally appeared James M. Syar and Ralston P. Roberts

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



WITNESS my hand and official seal.

Linda D. Danser  
SIGNATURE OF NOTARY

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

- ☐ INDIVIDUAL
- ☒ CORPORATE OFFICER  
President, Secretary  
TITLE(S)
- ☐ PARTNER(S)
- ☐ LIMITED
- ☐ GENERAL
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

Right of Way & Easement Agreement - Williamson  
TITLE OR TYPE OF DOCUMENT  
Communications dbt Vyvx, Inc  
13pgs, including Exhibits  
NUMBER OF PAGES

**SIGNER IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY(IES)  
Syar Industries

4-6-00  
DATE OF DOCUMENT  
Williamson Communications  
SIGNER(S) OTHER THAN NAMED ABOVE

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Napa

SS.

On April 7, 2000

Date

, before me, Deborah L. Steinberg

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

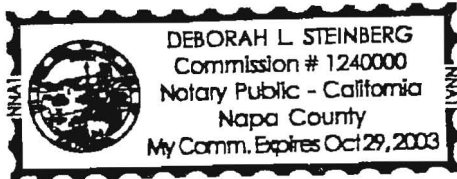
Chris Savage

Name(s) of Signer(s)

☐ personally known to me

☒ proved to me on the basis of satisfactory evidence

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



Place Notary Seal Above

WITNESS my hand and official seal.

Deborah L. Steinberg  
Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: Right of Way and Easement Agreement

Document Date: April 6, 2000

Number of Pages: 15 <sup>Including Exhibits and Notary Pages</sup>

Signer(s) Other Than Named Above: Syar Industries, Inc.

### Capacity(ies) Claimed by Signer

Signer's Name: Chris Savage

☒ Individual

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: Williams Communications, Inc.

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

EXHIBIT "A"

COMMUNICATIONS SYSTEM EASEMENT DESCRIPTION

Being a strip of land over a portion of the lands of Syar Industries, situated in the Sotoyome Rancho, County of Sonoma, State of California, as described in Document No. 1986-014193, Official Records of Sonoma County, being a portion of Parcel fourteen, Tract Two of said Document, said easement more particularly described as follows:

Beginning at a point on the northwesterly boundary of said Syar Parcel marked by a  $\frac{3}{4}$ " iron pipe monument tagged RCE 28167, as shown on that certain Record of Survey filed in Book 453 at Page 49, Official Records of Sonoma County;

Thence N 66°35'00" E, 46.69 feet along said northwesterly boundary;  
Thence N 04°25'00" E, 21.84 feet to a  $\frac{3}{4}$ " iron pipe monument tagged RCE 28167, as shown on said Record of Survey, marking the most northerly corner of said Parcel Fourteen, Tract Two;

Thence leaving said northwesterly boundary, S 59°58'28" E, 639.74 feet, more or less to the easterly boundary of said parcel, said easterly boundary called "Center of the Russian River" in said deed;

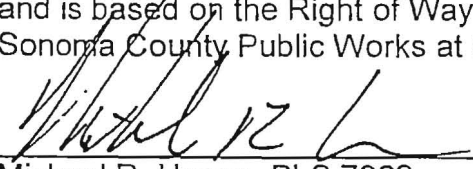
Thence along the easterly boundary of said parcel, called "Center of the Russian River" in said deed, S 02°37'05" E, 67.93 feet;

Thence leaving said easterly boundary, N 59°58'28" W, 694.75 feet to the Point of Beginning.

Containing 0.86 acres

Over Assessor's Parcel No. 088-190-028

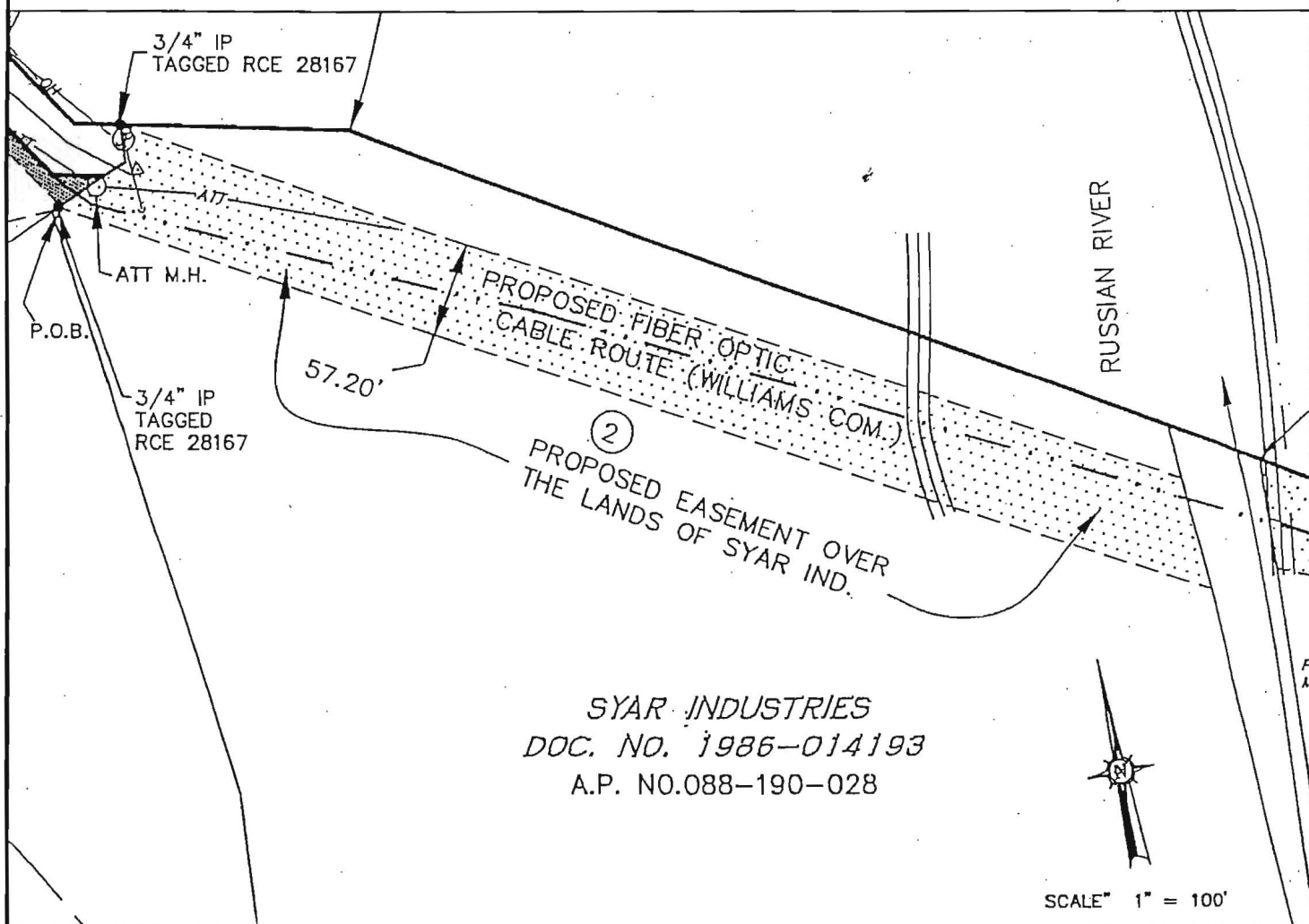
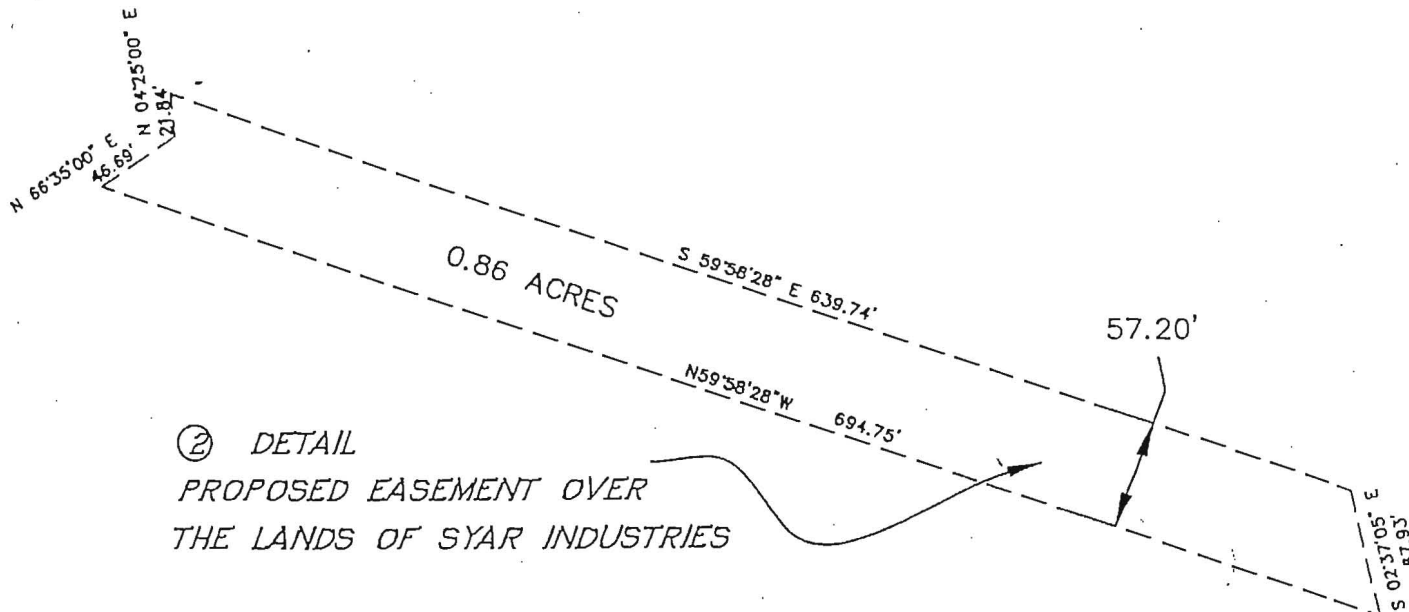
This description prepared by Michael R. Hogan, PLS 7362 in December, 1999, and is based on the Right of Way Record Map R119A.2, filed in the office of Sonoma County Public Works at Serial No. 036259.

  
Michael R. Hogan, PLS 7362

12/23/99  
Date

END OF DESCRIPTION





**HOGAN - FORD**  
LAND SURVEYING  
8910 Sonoma Highway Ph.(707)833-8468  
Kenwood, CA 95462 Fax(707)833-8744



PLAT OF EASTMENT  
OVER THE LANDS OF  
SYAR INDUSTRIES  
A.P. NO. 088-190-028  
PREPARED FOR:  
WILLIAMS COMMUNICATIONS, INC.

## EXHIBIT "B"

## COMMUNICATIONS SYSTEM EASEMENT DESCRIPTION

Being a strip of land over a portion of the lands of Syar Industries, Situated in the Sotoyome Rancho, County of Sonoma, State of California, as described in Document No. 1986-014193, Official Records of Sonoma County, being a portion of Parcel fourteen, Tract Two of said Document, said easement more particularly described as follows:

Commencing at a ¾" iron pipe monument tagged RCE 28167, as shown on that certain Record of Survey filed in Book 453 at Page 49, Official Records of Sonoma County marking the most northerly corner of said Parcel Fourteen, Tract Two;

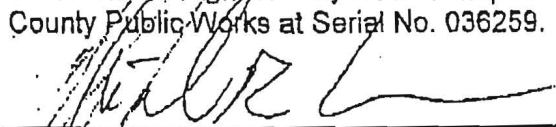
Thence along the Right of Way of the State of California Highway 101 as shown on that certain map titled Right of Way Record Map on file at the Sonoma County Public Works Department under Serial No. 036258, S 77°48'05" E, 18.19 feet to a point, being the True Point of Beginning of an easement 10 feet in width, lying 5 feet on each side of the following described easement centerline;

Thence along said easement centerline, S 24°19'57" E, 63.28 feet;  
Thence N 63°10'15 E, 35.26 feet to the westerly boundary of said Parcel Fourteen which point bears N 66°35'00" E, 9.69 feet from an iron pipe tagged RCE 28167.

The tangents are to be foreshortened and extended as necessary to form a continuous 10.00-foot wide strip.

Being a portion of Assessor's Parcel No. 088-190-028

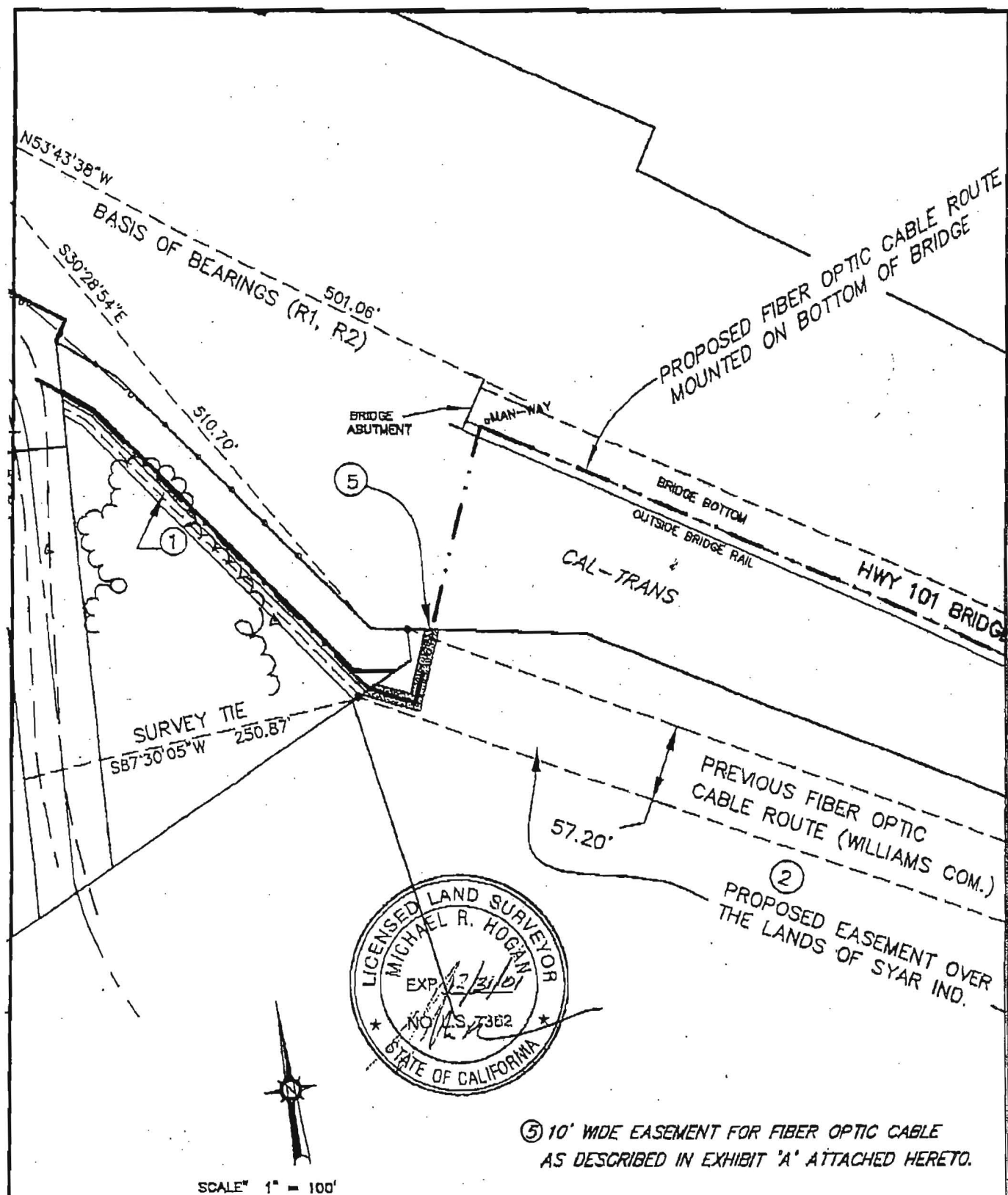
This description prepared by Michael R. Hogan, PLS 7362 in March, 00 and is based on the Right of Way Record Map R119A.2, filed in the office of Sonoma County Public Works at Serial No. 036259.

  
Michael R. Hogan, PLS 7362

3-20-00  
Date

END OF DESCRIPTION





**HOGAN - FORD**  
LAND SURVEYING  
8810 Seaview Highway P.O. Box 833-8480  
Kenwood, CA 95462 Fax 707/833-5744



PLAT OF EASEMENT  
OVER THE LANDS OF  
SYAR INDUSTRIES  
PREPARED FOR:  
WILLIAMS COMMUNICATIONS, INC.  
MARCH 13, 2000



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# ROW Access Line List

Line	Tract State	Tract County	Tract Number	County	Grantor Last Name	Grantor First Name	Grantor Company	Tract Total	AFF
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-053	Sonoma			City of Healdsburg	\$3,659.13	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-054	Sonoma			North Coast Railroad Authority	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-055	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-056	Sonoma			North Coast Railroad Authority	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-057	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-058	Sonoma			North Coast Railroad Authority	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-059	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-060	Sonoma			North Coast Railroad Authority	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-061	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-062	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-063	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-064	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-065	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-066	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-067	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-068	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-069	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-070	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-071	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-072	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-073	Sonoma			California Department of Transportation (CalTrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-074	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-075	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-076	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-077	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-078	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-079	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-080	Sonoma			City of Healdsburg	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-081	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-082	Sonoma	Carraro	Frank		\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-083	Sonoma	Syar	James M.	Syar Industries, Inc.	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-084	Sonoma	Herrick	Gregory W.		\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-085	Sonoma	Herrick	Gregory W.	Trustee of the Gregory W. Herrick Trust	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-086	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-087	Sonoma			North Coast Railroad Authority	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-088	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-089	Sonoma	Coconas	James G.	Trustee for the Coconas Family Trust	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-090	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-091	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-092	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-093	Sonoma			California Department of Transportation (CalTrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-094	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-095	Sonoma			California Department of Transportation (CalTrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-096	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-097	Sonoma			California Department of Transportation (CalTrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-098	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-099	Sonoma			California Department of Transportation (CalTrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-100	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-101	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-102	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-103	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-104	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-105	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-106	Sonoma			Town of Windsor	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-107	Sonoma			Town of Windsor	\$0.00	4895

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ROW Access Line List

Line	Tract State	Tract County	Tract Number	County	Grantor Last Name	Grantor First Name	Grantor Company	Tract Total	AEE
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-287	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-288	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-289	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-290	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-291	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-292	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-293	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-294	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-295	Sonoma			North Coast Railroad Authority	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-296	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-297	Sonoma			Union Pacific Railroad Company	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-298	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-299	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-300	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-301	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-302	Sonoma			County of Sonoma	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-303	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-304	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895
Point Arena to Sacramento - Diverse Route	CA	SO	CA-SO-305	Sonoma			Department of Transportation (Caltrans)	\$0.00	4895

## PRE-CONSTRUCTION AGREEMENT

This Agreement ("Agreement") is effective on the last date executed by any of the parties hereto, as shown below, and is between the County of Sonoma ("Sonoma County"), the Cities of Santa Rosa ("Santa Rosa"), Healdsburg ("Healdsburg"), and Cloverdale ("Cloverdale"), and the Town of Windsor ("Windsor"), California (such governmental entities being referred to herein collectively, for convenience, as the "Sonoma Consortium") and Williams Communications, Inc., a Delaware corporation ("WCI"), with principal offices located at One Williams Center, Tulsa, Oklahoma 74172. The Sonoma Consortium and WCI are sometimes referred to herein collectively as "the Parties" and individually as a "Party." The cities, town and county identified collectively above as the Sonoma Consortium are also sometimes referred to herein separately as "members" of the Sonoma Consortium.

### BACKGROUND

A. WCI wishes to construct a telecommunications system (the "WCI System") that traverses a route of approximately forty (40) miles from Cloverdale, California, to a point near the town of Sonoma, California, (the "Route"), consisting generally of high density polyethylene conduits and innerduct, fiber optic cable, below ground manholes, handholes and splice boxes, and above-ground route markers and related facilities. The facilities comprising the WCI System described in the preceding sentence are hereinafter called the "Telecommunications Facilities."

B. In exchange for the issuance of permits for construction of the Telecommunications Facilities as provided in this Agreement, and in lieu of reimbursing the Sonoma Consortium for the actual costs associated with the construction of the Telecommunications Facilities that the Sonoma Consortium might otherwise incur, and in lieu of the members requiring a less intrusive route for the WCI System, a less intrusive work schedule and other time, place or manner conditions, WCI shall (i) grant the Sonoma Consortium an indefeasible right of use ("IRU") in and to certain dark optical fibers within the WCI System and (ii) provide additional consideration to the Sonoma Consortium as set forth herein.

### TERMS OF AGREEMENT

1. **Encroachment Permitting.** Each of the members of the Sonoma Consortium from which WCI has applied for an encroachment permit, a building permit, an excavation permit, or other permit or authorization necessary to the construction of the WCI System (separately, "Permit" and collectively, "Permits"), excluding any regeneration station, has reviewed the Permits for which WCI has applied. WCI has provided the members of the Sonoma Consortium with all information necessary to process WCI's pending Permit applications. WCI and the Sonoma Consortium have agreed to "standard" terms and conditions that, in substantially similar form, will be incorporated into all Permits for which WCI has applied. Each member of the Sonoma Consortium shall promptly (but in any event no later than

November 8, 2000) tender the subject Permit to WCI for written acceptance by WCI and, upon such acceptance by WCI, shall issue and deliver the applicable Permit to WCI. The terms of all Permits will be administered reasonably and in good faith with the shared objective of allowing WCI to complete the WCI System as expeditiously as possible with a minimum of disruption to the Sonoma Consortium members and their constituents. The obligations set forth in this Agreement shall be binding, as between WCI and each separate member of the Sonoma Consortium, immediately upon execution of this Agreement by WCI and each such executing member.

2. **Grant of IRU.** In consideration of the Sonoma Consortium's promises and agreements set forth in this Agreement, WCI shall grant the Sonoma Consortium IRUs as follows: (i) an IRU in four (4) single mode optical fibers that shall extend from Cloverdale to Healdsburg; (ii) an IRU in twenty-four (24) single mode optical fibers that shall extend from Healdsburg to a point on the Route near Petaluma; and (iii) an IRU in four (4) single mode optical fibers that shall extend from said point near Petaluma to a point on Williams' Route near the town of Sonoma. The WCI obligation set forth in this paragraph 2 is subject to the parties' substantial compliance with the "IRU Agreement," attached as Attachment A hereto, and (ii) the Sonoma Consortium's substantial performance of all of its obligations under this Agreement, including without limitation the permitting obligations set forth in paragraph 1 above. (The optical fibers in which the Sonoma Consortium will be granted rights under the IRU Agreement are hereinafter called "the Subject Sonoma Consortium Fibers.")

3. **Restricted Use of the Subject Sonoma Consortium Fibers.** Use of the Sonoma Consortium Fibers shall be restricted as provided in the IRU Agreement.

4. **Maintenance and Repair.** As additional consideration for the Sonoma Consortium's promises and agreements herein contained, WCI shall maintain the Sonoma Consortium Fibers in the same manner as, and with the same degree of care with which, WCI maintains its own optical fibers, without charge to the Sonoma Consortium. Nothing herein shall be construed to require WCI to maintain any optical fibers installed at any time by the Sonoma Consortium or any member of the Sonoma Consortium, whether or not any such fibers interconnect with the Subject Sonoma Consortium Fibers. Should any member, including contractors working for that member, damage the Telecommunications Facilities, that member shall be liable for the actual cost of the repairs only, as provided by California law. In the event the Telecommunication Facilities are damaged due to some other cause, the members shall be liable only for the incremental material and labor costs directly related to the repair of the Sonoma Consortium Fibers. The parties shall cooperate in recovering expended costs from any responsible third party. In no event shall WCI, the Sonoma Consortium, or any of its members be liable for any special or consequential damages or losses.

5. **Relocation Costs.** WCI shall be responsible for all costs related to relocating the Telecommunications Facilities, including the subject Sonoma Consortium Fibers, except as provided below.



(a) If the relocation is necessitated by an abutting private development, then, to the extent permitted by law, the private developer shall be responsible for all costs related to the relocation of the Telecommunications Facilities.

(b) If the relocation is caused by a public project (whether financed directly by a public agency or indirectly by an assessment district) such as any change of grade or alignment or width of any road, street, sidewalk, or other public facility, installation of curbs and gutters, installation of landscaping, or construction of any underground or aboveground facilities by the member(s), the member(s) shall notify WCI prior to any proposed relocation and shall consult with WCI regarding the reasons for relocation, and shall consider in good faith any reasonable measures proposed by WCI to reduce the relocation costs. However, the member(s) may in its sole discretion require relocation of the Telecommunications Facilities at WCI's sole expense. WCI shall complete any required removal or relocation within 120 days of receipt of notice from the member(s) or such other time as may be agreed in writing by the Director of Public Works of the affected Sonoma Consortium Member or the officer or employee of that member who has the equivalent duties and responsibilities of a Director of Public Works. If WCI fails to remove or relocate the facilities within the prescribed time period, the member(s) may remove or relocate the facilities, and WCI shall promptly reimburse the member(s) any and all actual expenses, including administrative overhead. Any removal or relocation by WCI shall only be done pursuant to an encroachment permit, which shall be issued simultaneously with transmittal of the notice required by this sub-paragraph on a non-discriminatory basis and upon reasonable and customary terms and conditions.

(c) An affected Sonoma Consortium member shall pay the reasonable incremental cost to relocate manholes or handholes that are used solely by that member.

**6. Sonoma Consortium Waiver of Cost Reimbursement.** In consideration of the WCI agreements set forth herein, the Sonoma Consortium agrees that, so long as WCI discharges its obligations under all applicable Permits and this Agreement, neither the Sonoma Consortium nor any of its members shall be entitled to reimbursement for any costs or expenses that might otherwise have been chargeable to WCI, except as may be otherwise provided in a Permit, this Agreement or the IRU Agreement.

**7. Sonoma Consortium Access Facilities.** WCI, at no charge to the Sonoma Consortium, shall provide the Sonoma Consortium with handholes or manholes (collectively, "Access Facilities") at the eight (8) locations as identified on Exhibit D to the IRU Agreement. In addition, WCI shall provide access to the Subject Sonoma Consortium Fibers through WCI handholes or manholes installed along the Route at those locations selected by WCI for WCI's needs that are closest to the seventeen (17) locations listed on Exhibit D to the IRU Agreement. WCI shall determine in its sole discretion the types of access facilities to provide for the Sonoma Consortium at those 17 locations, which access facilities may include manholes, handholes, or separate splice enclosures within a Williams access facility. The Sonoma Consortium shall not access any part of the WCI System for any purpose without the prior written consent of WCI, which consent shall not be unreasonably withheld.

Any access allowed by WCI shall be upon such reasonable terms and conditions imposed by WCI.

**8. Certain Construction Procedures.**

(a) WCI shall install its conduits and fiber optic cable a minimum of three feet below the deepest utility line (including water, sewer, and electrical lines)("Utility Line"), which Utility Line is not deeper than ten (10) feet below the surface. In cases where the Utility Line is more than ten (10) feet below the surface and WCI intends to install its facilities at a depth less than three feet below the deepest Utility Line, WCI shall locate Utility Lines that are affected by construction, by potholing or other reliable method approved in writing by the affected Sonoma Consortium member, to determine the depth of the Utility Line. WCI shall thereafter submit for written approval an acceptable depth for the new facilities. To the extent that WCI engages in potholing operations, WCI shall submit a potholing plan to the affected member of the Sonoma Consortium, which plan shall describe the mechanics of any potholing operations and pavement restoration. WCI's location of Utility Lines and potholing operations shall be conducted as part of WCI's actual construction of the WCI System. WCI shall provide as-built drawings to the Sonoma Consortium after the completion of construction. All damage to any Utility Line shall be immediately repaired to the reasonable satisfaction of the Engineer responsible for the public Utility Line. In addition, WCI shall promptly reimburse the public entity owning any damaged Utility Line for all expenses, including administrative expenses, incurred by it in monitoring the damage, notifying affected citizens and agencies, and effecting such repairs as the Engineer in his or her sole discretion deems appropriate. In addition, in the event that, as a result of the negligence or intentional acts of WCI, any regulatory agency, including without limitation the Regional Water Quality Control Board, imposes fines or costs upon any member of the Sonoma Consortium, WCI shall reimburse such member for the actual amount of such fine or cost.

(b) During construction of the Telecommunication Facilities, WCI shall designate a contact person or persons with 24-hour availability physically located within Sonoma County and shall provide 24-hour telephone numbers to respond to construction concerns of the Sonoma Consortium. The contact person(s) shall have authority to make decisions on behalf of WCI. WCI shall provide a written description of its procedures for handling complaints within five days of the execution of this Agreement.

**9. Future Franchise Rights.** The Parties understand that WCI holds a Certificate of Public Convenience and Necessity ("CPCN") issued by the California Public Utilities Commission. WCI contends that the members of the Sonoma Consortium neither have the authority to grant WCI a franchise for telecommunications services, nor to withhold such a franchise, under existing California and federal law. Nothing herein shall be construed to prevent any member of the Sonoma Consortium from exercising franchising authority in the event that, at any time in the future, (i) the law applicable to franchising of telecommunications services allows any member of the Sonoma Consortium to exercise franchising authority, or (ii) WCI provides services which allow one or more members of the

Sonoma Consortium to issue or withhold franchises applicable to such services. As used herein, the phrase "telecommunications services" has the same meaning as "telecommunications services" as used in the California Telecommunications Infrastructure Development Act, Cal. Govt. Code §50030, and includes all services authorized by WCI's CPCN.

10. **Notices.** All notices and communications concerning this Agreement shall be in writing and addressed to the other Party as set forth below. Unless otherwise provided herein, notices shall be hand delivered, sent by commercial overnight delivery service, or transmitted by facsimile, and shall be deemed served or delivered to the addressee or its office when received at the address for notice specified below when hand delivered, upon confirmation of sending when sent by facsimile, or on the day after being sent when sent by overnight delivery service.

TO THE SONOMA CONSORTIUM:

County of Sonoma  
Attn: County Administrator  
575 Administration Drive, Ste. 104A  
Santa Rosa, CA 95403

City of Santa Rosa  
Attn: City Manager  
100 Santa Rosa Avenue  
P.O. Box 1678  
Santa Rosa, CA 95402-1678

City of Healdsburg  
Attn: City Manager  
401 Grove Street  
Healdsburg, CA 95448

City of Cloverdale  
Attn: City Manager  
124 N. Cloverdale Boulevard  
P.O. Box 217  
Cloverdale, CA 95425

City of Windsor  
Attn: Town Manager  
9291 Old Redwood Highway  
P.O. Box 100  
Windsor, CA 95492

TO WILLIAMS:

Williams Communications, Inc.  
Attn: Director of Land and Records  
110 W. 7th St, Ste 500  
Tulsa, Oklahoma 74119  
Facsimile No.: (918) 573-8967

With copies to:

Williams Communication, Inc.  
Attn: Contract Administration  
One Williams Center, Suite 26-5  
Tulsa, Oklahoma 74172  
Facsimile No.: (918) 573-6578

Williams Communications, Inc.  
Attn: General Counsel  
One Williams Center, Suite 4100  
Tulsa, Oklahoma 74172  
Facsimile No.: (918) 573-3005

11. **Force Majeure.** Neither Party shall be in default under this Agreement or the IRU Agreement with respect to any delay in its performance caused by any of the following conditions (each a "Force Majeure Event"): (1) act of God; (2) fire; (3) flood; (4) war or civil disorder; (5) any other cause beyond the reasonable control of such Party. The Party claiming relief as a result of a Force Majeure Event shall promptly notify the other in writing of the existence of the Force Majeure Event relied on, the expected duration of the Force Majeure Event, and the cessation or termination of the Force Majeure Event. The Party claiming relief as a result of a Force Majeure Event shall exercise commercially reasonable efforts to minimize the time for any such delay.

12. **Choice of Law and Forum Selection.** This Agreement is governed by and shall be construed in accordance with the laws of the State of California. Except as provided in the next sentence of this paragraph 12, or unless the parties agree otherwise in writing, any civil action asserting any claim arising under this Agreement ("Contract Claim") shall be filed in the Superior Court of Sonoma County, California. If (i) the United States District Court has exclusive jurisdiction of any Contract Claim, or exclusive jurisdiction of any claim that the plaintiff has properly joined with any Contract Claim, or (ii) any claim that the plaintiff has properly joined with any Contract Claim is predicated upon federal law, such claim or claims may be filed in the United States District Court for the Northern District of California (San Francisco or Oakland divisions), but in no other federal court. A Party who commences a civil action against the other Party shall join all claims against the other Party that are then known to that plaintiff. The Parties agree that the courts identified herein have jurisdiction of the person of each of the Parties and that venue will be proper in those courts in respect of all of the claims identified herein. Nothing herein shall be construed to limit a Party's choice of forum in respect of any civil action in which no Contract Claims are asserted. As

used herein, "claim" has the meaning employed in Rule 8(a)(2) of the Federal Rules of Civil Procedure.

**13. Counterparts and Facsimile Signature.** Subject to the last sentence of paragraph one above, this Agreement shall be effective upon signature by all Parties. This Agreement may be executed in two or more counterparts, all of which taken together shall constitute one and the same instrument, and any Party may execute this Agreement by signing such counterparts. This Agreement may be duly executed and delivered by a Party by execution and facsimile delivery of the signature page of a counterpart to the other Parties, provided that, if delivery is made by facsimile, the executing Party shall promptly deliver a complete and executed original counterpart to the other Parties.

**14. Authority.** Each of the Parties hereto represents that it is fully authorized and empowered to execute this Agreement and the individual signatories represent that they are fully authorized and empowered to act for the Party on behalf of which each such signatory has executed this Agreement.

**15. Uses Subordinate.** This Agreement is subject and subordinate to the prior and continuing right of Sonoma Consortium members and their assigns to use any and all of the public rights-of-way for any lawful use. It is further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title which may affect the public right-of-way. WCI shall be solely responsible for obtaining any additional necessary permits and approvals from any public and private entities other than the members of the Sonoma Consortium. Sonoma County hereby notifies WCI that Sonoma County's title to the public roads is in many instances only a prescriptive title, and that permission of private property owners may be necessary for the installation of the System. WCI is not authorized to use any Sonoma Consortium member property located outside of the public rights-of-way, such as light poles, without the express written agreement of that member.

**16. Taxes.** WCI agrees that it shall be solely responsible for any and all lawful taxes, fees and assessments relating to its use and maintenance of the System. Pursuant to Section 107.6 of the California Revenue and Taxation Code, WCI recognizes and understands that WCI's use of the public rights-of-way may create a possessory interest subject to property taxation and that WCI shall be subject to the payment of property taxes, if any, levied on such interest.

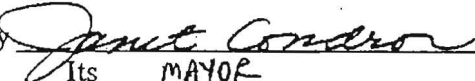
**17. Successors.** This Agreement is binding upon the successors, assigns and transferees of the parties hereto.

**18. Merger.** This writing, including the IRU Agreement attached hereto, is intended both as the final expression of the agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

THE COUNTY OF SONOMA

By \_\_\_\_\_  
Its \_\_\_\_\_

THE CITY OF SANTA ROSA

By   
Its MAYOR

THE CITY OF HEALDSBURG

By \_\_\_\_\_  
Its \_\_\_\_\_

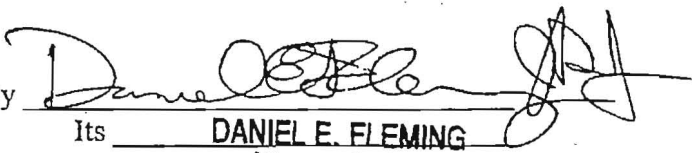
THE CITY OF CLOVERDALE

By \_\_\_\_\_  
Its \_\_\_\_\_

THE TOWN OF WINDSOR

By \_\_\_\_\_  
Its \_\_\_\_\_

WILLIAMS COMMUNICATIONS, INC.

By   
Its DANIEL E. FLEMING  
Attorney-in-fact

THE COUNTY OF SONOMA

By Mike Lally  
Its Chair, Board of Supervisors

THE CITY OF SANTA ROSA

By Janet Connor  
Its MAYOR

THE CITY OF HEALDSBURG

By \_\_\_\_\_  
Its \_\_\_\_\_

THE CITY OF CLOVERDALE

By \_\_\_\_\_  
Its \_\_\_\_\_

THE TOWN OF WINDSOR

By \_\_\_\_\_  
Its \_\_\_\_\_

WILLIAMS COMMUNICATIONS, INC.

By Daniel E. Fleming  
Its DANIEL E. FLEMING  
Attorney-in-fact

PRE-CONSTRUCTION AGREEMENT



THE COUNTY OF SONOMA

By \_\_\_\_\_  
Its \_\_\_\_\_

THE CITY OF SANTA ROSA

By *Janet Condron*  
Its MAYOR

THE CITY OF HEALDSBURG

By *Ch. H. H. H. H.*  
Its CITY Manager

THE CITY OF CLOVERDALE

By \_\_\_\_\_  
Its \_\_\_\_\_

THE TOWN OF WINDSOR

By \_\_\_\_\_  
Its \_\_\_\_\_

WILLIAMS COMMUNICATIONS, INC.

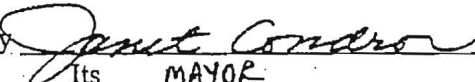
By *Daniel E. Fleming*  
Its DANIEL E. FLEMING  
Attorney-in-fact

PRE-CONSTRUCTION AGREEMENT

THE COUNTY OF SONOMA

By \_\_\_\_\_  
Its \_\_\_\_\_

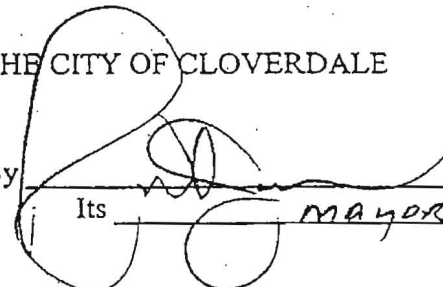
THE CITY OF SANTA ROSA

By   
Its MAYOR

THE CITY OF HEALDSBURG

By \_\_\_\_\_  
Its \_\_\_\_\_


THE CITY OF CLOVERDALE

By   
Its MAYOR

THE TOWN OF WINDSOR

By \_\_\_\_\_  
Its \_\_\_\_\_

WILLIAMS COMMUNICATIONS, INC.

By   
Its DANIEL E. FLEMING  
Attorney-in-fact

PRE-CONSTRUCTION AGREEMENT

THE COUNTY OF SONOMA

By \_\_\_\_\_  
Its \_\_\_\_\_

THE CITY OF SANTA ROSA

By *Janet Condron*  
Its MAYOR

THE CITY OF HEALDSBURG

By \_\_\_\_\_  
Its \_\_\_\_\_

THE CITY OF CLOVERDALE

By \_\_\_\_\_  
Its \_\_\_\_\_

THE TOWN OF WINDSOR

By *Paul*  
Its Town Manager

WILLIAMS COMMUNICATIONS, INC.

By *Daniel E. Fleming*  
Its DANIEL E. FLEMING  
Attorney-in-fact

PRE-CONSTRUCTION AGREEMENT

### Contract Brief

File Number C00475  
Contract Name PRE-CONSTRUCTION AGREEMENT - Sonoma County, CA  
Contract From WILLIAMS COMMUNICATIONS, INC., a Delaware corporation, ("WCI")  
Contract To COUNTY OF SONOMA AND CITIES OF SANTA ROSA, HEALDSBURG AND CLOVERDALE, AND TOWN OF WINDSOR, CALIFORNIA, (such governmental agencies being referred to collectively as the "Sonoma Consortium")  
Agreement Type Joint Arrangement;  
Effective Date 12/08/2000  
Evergreen No

To Party Notice Address County of Sonoma  
Attn: County Administrator  
575 Administrative Drive, Suite 104A  
Santa Rosa, CA 95403

Other Party Notice Address City of Santa Rosa  
Attn: City Manager  
100 Santa Rosa Avenue, P.O. Box 1678  
Santa Rosa, CA 95402--1678

Other Party Notice Address City of Healdsburg  
Attn: City Manager  
401 Grove Street  
Healdsburg, CA 95448

Other Party Notice Address City of Cloverdale  
Attn: City Manager  
124 N. Cloverdale Boulevard, P.O. Box 217  
Cloverdale, CA 95425

Other Party Notice Address City of Windsor  
Attn: Town Manager  
9291 Old Redwood Highway, P.O. Box 100  
Windsor, CA 95492

Consideration In exchange for issuance of construction permits, reimbursing the Sonoma Consortium actual costs associated with construction, and in lieu of Consortium requiring a less intrusive route, WCI shall grant the Consortium an IRU in dark fiber.

As additional consideration, WCI shall maintain the Sonoma Consortium fibers.

### Contract Brief

WCI shall provide Consortium with handhole or manholes at eight (8) locations. See IRU Agreement

Legal	40 mile route from Cloverdale, CA to a point near the town of Sonoma, CA, (the "Route")
Term	
Termination	
Renewal Option	
Insurance Requirements	
Indemnification	
Deliverables	
Limitations	Use of the Sonoma Consortium Fibers shall be restricted as provided in the IRU Agreement ( see B00285)
Confidentiality	
Governing Law	State of California
Future Options	
Comments	WCI contends that members of the Sonoma Consortium have neither the authority to grant WCI a franchise nor to withhold such a franchise. Nothing in the Agreement prohibits any member from exercising franchising authority in the event that future law applicable to franchising allows any member to exercise such authority of ir WCI provides services which allow one or members to issue or withhold franchises applicable to such services. (Section 9)
Assignability	
Taxes	WCI solely responsible for all taxes assessed relating to use and maintenance of the System. (Section 16)
Relocation	WCI shall be responsible for all costs related to relocating the Facilities, including the Sonoma Consortium Fibers except: if relocation necessitated by an abutting private development in which case the private developer shall be responsible for all costs; if relocation caused by a public project, WCI may propose methods to reduce costs, but members may require relocation at WCI's sole expense. An affected member shall pay incremental cost to relocate manholes or handholes used solely by that member. (Section 5)
Maintenance	
Capacity	
Line Information	
Line Names	
Line States	
Line Counties	

## Contract Brief

**C00475 IRU**

Iru Type

Third Party Name

Line Segment

Mileage

Capacity

IRU\_Agreement

IRU Line Components

IRU Line Names

IRU Line States

IRU Line Counties



01E0267.01

**WCG TAG**  
**Williams Communications Group Telecommunications Agreements**  
Contract Administration's Electronic Document Management System

**Contract Brief**

Company Name	Sonoma, County of
Legal Entity	Williams Communications, Inc.
Strategic Business Unit	Network
Platform	Fiber Services
Input By	Mike Robinson
Contract Input Date	2/22/01
Contract Sponsor Last Name	Fleming
Contract Sponsor First Name	Dan
SBC Related	No
Inter-company	No
Intra-company	No
Includes International Service	No
Contract Type	Expense
Standard Form?	No
Service Type	
Contract Value	\$0
Execution Date	12/8/00
Contract Number	01E026701
Effective Date	12/8/00
Expiration Date	12/7/01
Evergreen	Yes
Firm Commitment	No
Confidentiality Provision	No
Confidentiality Provision Binding on Williams Affiliates	No
Assignable Contract	Not addressed
Most Favored Nations Clause	No
Right of First and/or Last Refusal	No
Non-Competition Clause	No
Non-Solicitation/Non-hire Clause	No
Publicity	Not addressed
Exclusive Relationship	No
Investment Restrictions	No
Change of Control Restriction on Williams	No
Comments	Pre-Construction Agreement regarding encroachment permits, party responsible for maintenance, waiver of cost reimbursement to the various members of the consortium and grant of access rights to the members of the consortium by Williams. No execution date, effective

Thursday, February 22, 2001





ATTACHMENT A

\* \* \*

DARK FIBER IRU AGREEMENT

Between

THE COUNTY OF SONOMA,  
THE CITIES OF SANTA ROSA, HEALDSBURG, AND  
CLOVERDALE  
AND  
THE TOWN OF WINDSOR, CALIFORNIA  
("GRANTEE")

And

WILLIAMS COMMUNICATIONS, INC. ("WILLIAMS")

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XXII	ENTIRE AGREEMENT; AMENDMENT; EXECUTION .....

## EXHIBITS

Exhibit A	System Route Map and System End Points
Exhibit B	Fiber Splicing, Testing and Acceptance Standards and Procedures
Exhibit C	Fiber Specifications
Exhibit D	Operations Specifications

## IRU AGREEMENT

THIS IRU AGREEMENT ("IRU Agreement") is made, as of the Effective Date (hereafter defined), by and between the COUNTY OF SONOMA, THE CITIES OF SANTA ROSA, HEALDSBURG, AND CLOVERDALE, AND THE TOWN OF WINDSOR, CALIFORNIA (collectively, "Grantee") and WILLIAMS COMMUNICATIONS, INC. ("Williams"), a Delaware corporation, having its principal office at One Williams Center, Tulsa, Oklahoma 74172.

### WITNESSETH:

WHEREAS, Williams has constructed or will construct a fiber optic communication system (the "System") along the route depicted in Exhibit A (the "Route");

WHEREAS, Williams and Grantee have entered into the Pre-Construction Agreement ("Pre-Construction Agreement"), to which this IRU Agreement is attached;

WHEREAS, the Pre-Construction Agreement contemplates Grantee assistance to Williams, including but not limited to the issuance of Williams' permits and authorizations;

WHEREAS, Williams is providing to Grantee an exclusive, indefeasible right to use certain optical fibers in the System along the Route, as hereafter described, upon the terms and conditions set forth below;

WHEREAS, the parties intend that Grantee shall have substantially all benefits and risks associated with the granted optical fibers, subject to this IRU Agreement; and

NOW, THEREFORE, in consideration of the mutual promises set forth below, the parties hereby agree as follows:

### ARTICLE I DEFINITIONS

Capitalized terms and phrases used in this IRU Agreement shall have the following meanings:

"Acceptance Date" shall have the definition set forth in Section 6.3.

"Acceptance Standards" means the standards set forth in Exhibit B with respect to the testing and condition of the Grantee Fibers.

"Affiliates" means, with respect to any entity, an entity controlling, controlled by, or under common control with such entity by means of direct or indirect majority equity ownership.

"IRU Agreement" shall have the definition set forth in the first paragraph above.

"Cable" means the fiber optic cable installed pursuant to this IRU Agreement as part of the System (including any replacement cable) and fibers contained therein, including the Grantee Fibers, and associated splicing connections, splice boxes and vaults, and conduit.

"Claim" means any claim, action, dispute, or proceeding of any kind between Grantee (or any of its Affiliates, successors or assigns) and Williams (or any of its Affiliates, successors, or assigns) and any other claim, transaction, occurrence, loss, liability, expense or other matter arising out of, in connection with, or in any way directly related to, the Grantee IRU, the Cable, the System, this IRU Agreement or any other instrument, arrangement or understanding directly related to the Grantee IRU.

"Connecting Point" means a point where the network or facilities of Grantee will connect to the System.

"Effective Date" means the date on which this IRU Agreement has been fully executed by all parties.

"Facility Owners/Lenders" means any entity (other than Williams): (a) owning any portion of the System or any property or security interest therein, (b) leasing to Williams, or providing an IRU to Williams in, any Segment, or (c) that is a Lender with respect to Williams or any Affiliates of Williams.

"Fibers" means any optical fibers contained in the System including the Grantee Fibers, the fibers of Williams and the fibers of any third party in the System.

"Force Majeure Event" shall have the definition set forth in Article XVI.

"Grantee" includes the County of Sonoma, the Cities of Santa Rosa, Cloverdale and Healdsburg, and the town of Windsor. The governmental entities identified in the preceding sentence are sometimes referred to herein individually as "Grantee member(s)."

"Grantee Equipment" means optronic (opto-electrical), electronic, or optical equipment, or materials, facilities, or other equipment owned, possessed, or utilized (other than the System), by Grantee (but this phrase does not include Grantee Fibers).

"Grantee Fibers" means those certain fibers in which Grantee shall be granted an IRU hereunder as set forth in Section 2.1.

"Grantee IRU" shall have the definition set forth in Section 2.1.

"Indefeasible Right of Use" or "IRU" is an exclusive, indefeasible right to use the specified property, but does not convey title, ownership, or rights of possession in any real or personal property.

"Initial Term" shall have the definition set forth in Section 8.1.

"Released Party" means each of the following:

- (a) Any Affiliates or Lenders of the other party and any Facility Owners/Lenders; or
- (b) any employee, officer, director, official, Council member, Board member, stockholder, partner, member, or trustee of the other party or of its Affiliates, Lenders, or Facility Owners/Lenders; or
- (c) assignees of the entities included in the above subparagraphs (a) or (b) and any employee, officer, director, official, Council member, Board member, stockholder, partner, member, or trustee of such assignees.
- (d) Released Party shall not include the signators to this IRU Agreement, their successors or assigns.

"Required Rights" shall have the definition set forth in Section 4.1.

"Route" shall have the meaning set forth in the Recitals above.

"Segment" means a discrete portion of the System and may refer to a span (a portion of the System between two Transmission Sites or between a Transmission Site and a point of presence or System end point), a portion between two points of presence or a point of presence and a System end point, or a portion of the System affected by a relocation or other circumstance.

"System" shall have the meaning set forth in the Recitals above.



"Term" means the term of this IRU Agreement as defined in Section 8.1, including the Initial Term and any effective extension of the Initial Term.

"Transmission Sites" means the optical amplifier, regenerator, and junction sites along the Route associated with the Cable.

"Williams" means Williams Communications, Inc., a Delaware corporation, formerly known as Vyvx, Inc.

"Williams Competitor" means (i) any entity primarily engaged as a commercial enterprise in the telecommunications industry, and (ii) any person, corporation, or other entity that Williams reasonably and in good faith regards as a competitor.

## ARTICLE II CONVEYANCE OF IRU

2.1 Grant of IRU. Effective as of the Acceptance Date and upon Grantee's substantial assistance to Williams as mutually agreed upon in the Pre-Construction Agreement, Williams grants to Grantee an exclusive IRU (the "Grantee IRU"), for the purposes described herein, in the "Grantee Fibers." The Grantee Fibers are: (i) four (4) single mode optical fibers extending from Cloverdale, California to Healdsburg, California; (ii) twenty-four (24) single mode optical fibers extending from Healdsburg, California to a point on the Route near Petaluma, California; and (iii) four (4) single mode optical fibers extending from such point near Petaluma, California to a point on the Route near the town of Sonoma, California. The Grantee Fiber specifications are more fully set forth in Exhibit C. Such IRU shall be subject to the terms and conditions set forth herein. The conveyance of the Grantee IRU grant does not convey any legal title to any real or personal property, including the Fibers, the Cable, or the System. The Grantee IRU does not include any equipment used to transmit capacity over or "light" the Grantee Fibers.

## ARTICLE III CONSIDERATION

3.1 Consideration. In consideration of Williams' grant of the Grantee IRU, Grantee has provided and will continue to provide the assistance set forth in the Pre-Construction Agreement and Grantee has made the promises and agreements set forth in this IRU Agreement.

## ARTICLE IV CONSTRUCTION

4.1 Acceptance Date Obligations. As of the Acceptance Date:

- (a) Williams shall have obtained all rights, licenses, authorizations, easements, leases, fee interests, or agreements that provide for the occupancy by the System of real property or fixtures (such as conduit, bridges, river crossings, or transmission towers); and
- (b) the System shall be designed, engineered, installed, and constructed in accordance with the specifications set forth in Exhibits B, C, and D.

The rights Williams is required to obtain pursuant to Subsection (a) above are referred to as "Required Rights." Williams shall maintain, renew or replace existing Required Rights through at least the duration of the Initial Term and any effective renewal term(s) as required for the System's continued occupancy.

4.2 Obligation to Complete. Williams shall cause the Acceptance Date to occur no later than thirty (30) days after the date Williams completes the construction of the Grantee Fibers in the System, but in no event later than one year from the date this IRU Agreement is signed by Williams.

4.3 Provision of As-Built Drawings. Within six (6) months after the Acceptance Date, Williams shall provide Grantee with as-built drawings of the System.

#### ARTICLE V CONNECTION TO THE SYSTEM

5.1 Connections. Subject to the provisions herein, Grantee shall arrange all connections of its facilities with the Grantee Fibers. Such connections shall be made only as set forth in Exhibit D.

5.2 No Unauthorized Access to System. Grantee shall not, except as specified in this Agreement or the Pre-Construction Agreement, access any part of the System without the prior written consent of Williams, which consent shall not be unreasonably withheld, and then only upon the reasonable terms and conditions specified by Williams.

#### ARTICLE VI ACCEPTANCE AND TESTING OF FIBERS

6.1 Acceptance Testing. Williams shall perform fiber acceptance testing of the Grantee Fibers and provide test deliverables to Grantee in accordance with Exhibit B. Williams shall determine the appropriate testing schedule and shall notify the affected Grantee member no less than 24 hours prior to the test. Grantee shall have the right, but not the obligation, to witness the

performance of all such fiber acceptance testing, but shall have no right to require any modification of the testing schedule.

6.2 Corrective Actions. If the fiber acceptance testing indicates that a Segment of the Grantee Fibers do not meet the Acceptance Standards, Williams shall expeditiously take such action as shall be reasonably necessary to cause such portion of the Grantee Fibers to meet the Acceptance Standards and then re-test the Grantee Fibers in accordance with the provisions of this Article. The cycle described above of testing, taking corrective action and re-testing shall take place until the Grantee Fibers meet the Acceptance Standards.

6.3 Acceptance. Williams shall promptly notify Grantee in writing when Williams believes that all Segments of the Grantee Fibers meet the Acceptance Standards. The date of Grantee's receipt of Williams' notice shall be the "Acceptance Date" of the Grantee Fibers unless Grantee shall, within five working days of such receipt, notify Williams that it does not accept the Grantee Fibers and state in such notice the basis upon which Grantee believes that the Grantee Fibers do not meet the Acceptance Standards. In the event of any such notice by Grantee, the parties shall negotiate in good faith to resolve the issues identified by Grantee. In the event the parties cannot resolve the dispute regarding Acceptance Standards, the dispute shall be referred to binding mediation to be conducted by a mutually agreed upon mediator in Northern California. The cost of any mediation shall be shared equally between Williams and Grantee.

## ARTICLE VII USE OF THE SYSTEM

7.1 Grantee's Rights Exclusive. Subject to section 7.2 below, Grantee may use the Grantee Fibers for any lawful purpose. Grantee's rights to use the Grantee Fibers are exclusive and neither Williams nor any designee or customer of Williams shall have any right to use the Grantee Fibers during the Term.

7.2 Restricted Use of Grantee Fibers. Williams and Grantee understand and agree that Grantee has been granted the Grantee IRU for Grantee's sole use in connection with the operation of Grantee's own telecommunications systems, which includes any governmental, educational or non-profit use. Grantee does not intend to engage in any commercial or profit-making venture in connection with its use of (i) the Grantee Fibers or (ii) any telecommunications system or other Grantee-owned Fibers with which the Grantee Fibers might become integrated or interconnected. Grantee will not use the Grantee Fiber for any commercial purpose. Grantee will not sell, lease, or convey the Grantee Fibers to any Williams Competitor and Grantee will not enter into any contract for the use of the Grantee Fibers by any Williams Competitor. Without limitation of the foregoing, and without limitation of the restriction on assignment set forth in Article XVIII of this IRU Agreement, Grantee shall not: (a) enter into any agreement for the sale of any IRU in the Grantee Fibers with, or otherwise sell "dark fibers" that constitute the Grantee Fibers to, any Williams

Competitor; or (b) otherwise sell or lease any telecommunications capacity that utilizes the Grantee Fibers to any Williams Competitor. Notwithstanding any other provision of this Section 7.2, nothing in this Section 7.2 is intended to or shall be deemed to constitute any restriction upon the right or ability of Grantee (or any Grantee member) to provide, in whole or in part by means of Grantee Fiber, services or facilities within the scope of its governmental authority, information services, video services or other services for which Grantee (or any Grantee member) charges a fee consistent with applicable law. In addition, Grantee may purchase equipment from any vendor, including a Williams Competitor, and Grantee may hire anyone to assist in operating the Grantee's system, including a Williams Competitor.

7.3 Notice of Damage. Grantee shall promptly notify Williams of any matters pertaining to any damage or impending damage to or loss of the use of the System that are known to it and that could reasonably be expected to adversely affect the System. Williams shall promptly notify Grantee of any matters pertaining to any damage or impending damage to or loss of the Grantee Fibers that are known to it and that could reasonably be expected to adversely affect the Grantee Fibers.

7.4 Precautions Against Damage. Grantee shall take all reasonable precautions against, and, subject to the terms of this IRU Agreement, shall assume liability for any damage caused by Grantee to the System or to Fibers used or owned by Williams or third parties, as provided in paragraph four of the Pre-Construction Agreement.

7.5 Avoiding Adverse Effect on System. Grantee shall not use equipment, technologies, or methods of operation that interfere in any way with or adversely affect the System or the use of the System by Williams or third parties or their respective Fibers, equipment, or facilities associated therewith, and Williams shall require all other users of the System to undertake a similar obligation.

7.6 Liens. Grantee shall not cause or permit any part of the System to become subject to any impermissible mechanic's, material man's, or vendor's lien, or any similar lien whether by operation of law or otherwise. If Grantee breaches its obligations under this Section, it shall immediately notify Williams in writing, shall promptly cause such lien to be discharged and released of record without cost to Williams and, if Grantee fails to cause such discharge and release, Grantee shall indemnify Williams against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such lien. Williams shall not cause or permit any part of Grantee Fiber to become subject to any impermissible mechanic's, material man's, or vendor's lien, or any similar lien whether by operation of law or otherwise. If Williams breaches its obligations under this Section, it shall immediately notify Grantee in writing, shall promptly cause such lien to be discharged and released of record without cost to Grantee and, if Williams fails to cause such discharge and release, Williams shall indemnify Grantee against all costs and expenses (including reasonable attorneys' fees, court costs at trial and on appeal) incurred in discharging and releasing such lien.

## ARTICLE VIII TERM

8.1 Term. The Term shall begin on the Effective Date and shall end twenty (20) years thereafter (the "Initial Term"). At Grantee's option, the term hereof may be renewed for two additional terms ("Renewal Term(s)") of ten (10) years each on the same terms as set forth in this Agreement. Thereafter, this Agreement may be renewed for additional Renewal Terms by mutual agreement on substantially the same terms as set forth herein. If a Grantee renewal option is not exercised, Grantee's IRU shall expire immediately at the end of the Initial Term, or the last Renewal Term, as the case may be, subject to section 8.6.

8.2 Condition on Renewal. Grantee may not exercise its right to extend the Agreement if, at least six (6) months prior to the date of the proposed extension of the Term, Williams, based upon its reasonable judgment, notifies Grantee that Williams has determined that continued operation of the System or Williams' continued performance under this IRU Agreement during such extension would be commercially impracticable because:

- (a) it is not commercially practicable to continue, renew, or replace applicable Required Rights upon commercially reasonable terms to permit continued performance during such extended Term; or
- (b) operation or maintenance of the System will not be technically practicable during such extended Term.

8.3 Alternatives to Renewal. If Williams determines that continued performance under this IRU Agreement during a requested extension would be commercially impracticable, as set forth in section 8.2, Williams shall (a) assign its rights and obligations under this IRU Agreement to an entity that agrees to the requested extension in accordance with section 8.1, (b) offer to convey the Cable to Grantee for an amount not to exceed One Hundred Dollars (\$100.00), (c) offer to convey the Grantee Fibers to Grantee for an amount not to exceed One Hundred Dollars (\$100.00), (d) offer to allow Grantee, alone or together with other entities holding IRUs or ownership interests in the System, to operate, maintain and use the System at Grantee's or such entities' sole cost, or (e) propose refurbishment of the System if Williams determines in its reasonable judgment that such refurbishment would be cost-effective.

8.4 System Refurbishment. If Williams proposes refurbishment of the System pursuant to Subsection 8.3(e), it shall provide Grantee notice of such proposal at least one hundred twenty (120) calendar days prior to the date the Term would expire absent any extension. The notice shall describe the refurbishment, state whether Williams personnel or a contractor will perform the work, and provide an estimate of the expected costs thereof. Grantee shall, within thirty (30) calendar days

of receiving such notice, notify Williams whether Grantee elects to participate in such refurbishment. If Grantee so elects, the Term shall be extended and Grantee shall reimburse Williams for the incremental material and labor costs directly related to the refurbishment of the Grantee Fibers. If Grantee elects to participate in such refurbishment Williams shall provide Grantee with monthly progress reports. Grantee shall pay its share of the costs from time to time after Williams issues invoice(s) therefor. If Grantee elects not to participate in such refurbishment, Williams shall select one of the options set forth in section 8.3(a-d); otherwise section 8.6 shall apply.

8.5 Effect of Termination. No termination of this IRU Agreement shall affect the rights or obligations of any party hereto:

- (a) with respect to any payment hereunder for services rendered prior to the date of termination;
- (b) pursuant to the Articles of this IRU Agreement entitled Limitation of Liability; Taxes and Governmental Fees; Insurance; Indemnification and Rules of Construction, respectively; or
- (c) pursuant to other provisions of this IRU Agreement that, by their sense and context, are intended to survive termination of this IRU Agreement.

8.6 Conveyance Upon Termination. In the event that the Term of this Agreement is not renewed pursuant to Section 8.1, and the System (or, in the discretion of Grantee, the Grantee Fiber) is not made available to Grantee pursuant to Section 8.3 above on mutually-agreed terms, then Williams shall convey the System to Grantee for a purchase price not to exceed One Hundred Dollars (\$100.00), said conveyance to become effective upon the end of the Term.

#### ARTICLE IX OPERATION, MAINTENANCE, AND REPAIR OF THE SYSTEM

9.1 Maintenance. During the Term, Williams shall perform all required Routine Maintenance and Non-Routine Maintenance. "Non-Routine Maintenance" means maintenance and repair work that Williams is obligated to provide under this IRU Agreement other than:

- (a) the work specifically identified as Routine Maintenance in Exhibit D;
- (b) work in which the aggregate amount of Costs incurred as a result of any single event or multiple, closely related events is less than or equal to five thousand dollars (\$5,000.00); or



- (c) work for which Grantee is obligated to reimburse Williams for all or a portion of the Costs incurred pursuant to other Articles of this IRU Agreement.

"Routine Maintenance" means maintenance and repair work that Williams is obligated to provide under this IRU Agreement and that is described in Subsections 9.1(a) or 9.1(b).

9.2 Consideration for Maintenance. Williams shall provide Maintenance of the Grantee Fibers and the System as set forth in paragraph 4 of the Pre-Construction Agreement.

9.3 Right to Subcontract. Williams may subcontract for testing, maintenance, repair, restoration, relocation, or other operational and technical services it is obligated to provide hereunder or may have the underlying facility owner or its contractor perform such obligations.

9.4 Maintenance of Grantee Equipment Excluded. Williams shall have no obligation under this IRU Agreement to maintain, repair, or replace Grantee Equipment or to provide space or power for Grantee Equipment.

9.5 No Unauthorized Access to System. Grantee shall not access any part of the System without the prior written consent of Williams, which consent shall not be unreasonably withheld, and then only upon the reasonable terms and conditions specified by Williams and the Pre-Construction Agreement.

## ARTICLE X RELOCATION

10.1 Relocation Procedures. Relocation procedures are set forth in paragraph 5 of the Pre-Construction Agreement and are incorporated here by this reference.

10.2 Updated As-Built Drawings. Williams shall deliver to Grantee updated as-built drawings with respect to any relocated Segment within one-hundred eighty (180) calendar days following the completion of such relocation.

## ARTICLE XI WARRANTIES

11.1 Warranties Relating to IRU Agreement Validity. In addition to any other representations and warranties contained in this IRU Agreement, each party hereto represents and warrants to the other that:

- (a) it has the full right and authority to enter into, execute, deliver, and perform its obligations under this IRU Agreement;



- (b) it has taken all requisite corporate or governmental action to approve the execution, delivery, and performance of this IRU Agreement;
- (c) this IRU Agreement (and the Pre-Construction Agreement) constitute a legal, valid and binding obligations enforceable against such party in accordance with their terms; and
- (d) its execution of and performance under this IRU Agreement shall not violate any applicable existing regulations, rules, statutes, or court orders of any local, state, or federal government agency, court, or body.

11.2 EXCLUSION OF WARRANTIES. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, WILLIAMS MAKES NO WARRANTY TO GRANTEE OR ANY OTHER ENTITY, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE INSTALLATION, DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, USEFUL LIFE, FUTURE ECONOMIC VIABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY FIBERS, THE SYSTEM, OR ANY SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

## ARTICLE XII LIMITATION OF LIABILITY

12.1 EXCLUSION OF INDIRECT DAMAGES. NEITHER PARTY NOR ANY CLAIMANT AFFILIATED WITH OR IN A CONTRACTUAL RELATIONSHIP WITH A PARTY SHALL BE LIABLE FOR SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES AS A RESULT OF THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, OR THE PRE-CONSTRUCTION AGREEMENT, OR ITS ACTS OR OMISSIONS RELATED TO THIS AGREEMENT, OR THE PRE-CONSTRUCTION AGREEMENT, OR ITS USE OF THE SYSTEM, WHETHER OR NOT ARISING FROM SOLE, JOINT OR CONCURRENT NEGLIGENCE, STRICT LIABILITY, OR VIOLATION OF LAW.

12.2 Indemnity Provisos. Notwithstanding the provisions of Article XXI or any other provision of this IRU Agreement, the limitations on liability set forth in section 12.1 above shall apply to all Claims of a party or third party arising from may defect, error, interruption, delay or attenuation of any telecommunications service, capacity, data or transmission.

12.3 No Recourse Against Released Parties. Neither party shall have any recourse of any kind against any Released Party or any assets of a Released Party with respect to any Claim, it being

expressly agreed and understood that no liability whatsoever shall attach to or be incurred by any Released Party with respect to any Claim under or by reason of this IRU Agreement or any other instrument, arrangement or understanding related to the Grantee IRU. Each party waives all such recourse to the extent set forth in this Section on behalf of its successors, assigns, and any entity claiming by, through, or under such party.

12.4 Pursuit of Actions Against Third Parties. Except as provided in section 12.3 and Article XXI, nothing contained in this IRU Agreement shall operate as a limitation on the right of either Williams or Grantee to bring an action or claim for damages against any third party (other than a Claimant affiliated with or in a contractual relationship with the other party). Williams and Grantee shall assign such rights of claim, execute such documents, and do whatever else may be reasonably necessary to enable the other (at such other party's sole expense) to pursue any such action or claim against such third party.

### ARTICLE XIII TAXES AND GOVERNMENTAL FEES

13.1 Grantee Obligations. Grantee shall timely report and pay, if applicable, any and all sales, use, income, gross receipts, excise, transfer, ad valorem, or other taxes, and any and all franchise fees or similar fees assessed against it, if any, due to the Grantee IRU, its use of the Grantee Fibers, including the provision of services over the Grantee Fibers or its use of any other part of the System, or its ownership or use of facilities connected to the Grantee Fibers. The above obligation, if any, applies to sales and excise taxes, if any, applicable to charges for maintenance or other Williams services provided pursuant to this IRU Agreement.

13.2 Williams Obligations. Subject to Section 13.1 above, Williams shall timely report and pay any and all sales, use, income, gross receipts, excise, transfer, ad valorem or other taxes, and any and all franchise fees or similar fees assessed against it, if any, due to its construction, ownership or use of the System.

13.3 If either party pays any tax or fee that the other party was or is otherwise obligated by law to pay, the party that paid such tax or fee shall be reimbursed by the other party.

13.4 Cooperation. The parties shall cooperate in any contest of any taxes or fees so as to avoid, to the extent reasonably possible, prejudicing the interests of the other party.

#### ARTICLE XIV NOTICE

14.1 Notice Addresses. All notices and communications concerning this IRU Agreement shall be provided as set forth in paragraph 10 of the Pre-Construction Agreement.

#### ARTICLE XV DEFAULT

15.1 Default and Cure. A party shall not be in default under this IRU Agreement unless and until the other party provides it written notice of such default and the first party shall have failed to cure the same within forty-five (45) calendar days after receipt of such notice; provided, however, that where such default cannot reasonably be cured within such forty-five (45) day period, if the first party shall proceed promptly to cure the same and prosecute such curing with due diligence, the time for curing such default shall be extended for such period of time as may be necessary to complete such curing. Any event of default may be waived in writing at the non-defaulting party's option. Upon the failure of a party to timely cure any such default after notice thereof from the other party and expiration of the above cure periods, then the non-defaulting party may pursue any legal remedies it may have under applicable law or principles of equity relating to such breach.

15.2 Interest. If either Williams or Grantee fails to make any payment under this IRU Agreement when due, such amounts shall accrue interest, from the date such payment is due until paid, including accrued interest, at a rate (unless specifically described elsewhere in this IRU Agreement) equal to eighteen percent (18%) per annum or, if lower, the highest percentage allowed by law.

#### ARTICLE XVI FORCE MAJEURE

16.1 Excused Performance. Neither Williams nor Grantee shall be in default under this IRU Agreement with respect to any delay in its performance (other than a failure to make payments when due) caused by any of the following conditions (each a "Force Majeure Event"): (a) act of God; (b) fire; (c) flood; (d) material shortage or unavailability not resulting from the responsible party's failure to timely place orders or take other necessary actions therefor; (e) war or civil disorder; or (f) any other cause beyond the reasonable control of such party. The party claiming relief under this Article shall promptly notify the other in writing of the existence of the Force Majeure Event relied on, the expected duration of the Force Majeure Event, and the cessation or termination of the Force Majeure Event. The party claiming relief under this Article shall exercise commercially reasonable efforts to minimize the time for any such delay.

## ARTICLE XVII RULES OF CONSTRUCTION

17.1 Interpretation. The captions or headings in this IRU Agreement are strictly for convenience and shall not be considered in interpreting this IRU Agreement or as amplifying or limiting any of its content. Words in this IRU Agreement that import the singular connotation shall be interpreted as plural, and words that import the plural connotation shall be interpreted as singular, as the identity of the parties or objects referred to may require. References to "person" or "entity" each include natural persons and legal entities, including corporations, limited liability companies, partnerships, sole proprietorships, business divisions, unincorporated associations, governmental entities, and any entities entitled to bring an action in, or that are subject to suit in an action before, any state or federal court of the United States. The word "including" means "including, but not limited to." "Days" refers to calendar days, unless otherwise provided, except that references to "banking days" exclude Saturdays, Sundays and holidays during which nationally chartered banks in Tulsa, Oklahoma are authorized or required to close. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

17.2 Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of Williams or Grantee shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

17.3 Agreement Fully Negotiated. This IRU Agreement has been fully negotiated between Williams and Grantee, after being drafted by Williams, with modifications negotiated by Grantee.

17.4 Document Precedence. In the event of a conflict between the provisions of this IRU Agreement and those of any Exhibit, the provisions of this IRU Agreement shall prevail and such Exhibits shall be corrected accordingly. This IRU Agreement does not supersede the Pre-Construction Agreement. The Pre-Construction Agreement and IRU Agreement shall be read together and their contents harmonized wherever possible. In the event of a direct conflict, the IRU Agreement shall take precedence.

17.5 Industry Standards. Except as otherwise set forth herein, for the purpose of this IRU Agreement the normal standards of performance within the telecommunications industry in the relevant market shall be the measure of whether a party's performance is reasonable and timely.

17.6 Cross References. Except as the context otherwise indicates, all references to Exhibits, Articles, Sections, Subsections, Clauses, and Paragraphs refer to provisions of this IRU Agreement.

17.7 Limited Effect of Waiver. The failure of either Williams or Grantee to enforce any of the provisions of this IRU Agreement, or the waiver thereof in any instance, shall not be construed

as a general waiver or relinquishment on its part of any such provision, but the same shall nevertheless be and remain in full force and effect.

17.8 Applicable Law and Forum Choice. This IRU Agreement shall be governed by the same choice of law and forum selection provision as provided in paragraph 12 of the Pre-Construction Agreement.

17.9 Severability. If any term, covenant or condition in this IRU Agreement shall, to any extent, be invalid or unenforceable in any respect under the laws governing this IRU Agreement, the remainder of this IRU Agreement shall not be affected thereby, and each term, covenant or condition of this IRU Agreement shall be valid and enforceable to the fullest extent permitted by law.

17.10 No Partnership Created. The relationship between Williams and Grantee shall not be that of partners, agents, or joint venturers for one another, and nothing contained in this IRU Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Williams and Grantee, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

17.11 No Third Party Rights. Nothing in this IRU Agreement is intended to provide any legal rights to anyone not an executing party of this IRU Agreement except under the indemnification and insurance provisions and except that:

- (a) Released Parties shall have the benefit of sections 12.3, 18.1 to 18.5, and 22.2, and
- (b) Facility Owners/ Lenders shall be entitled to rely on and have the benefit of sections 11.2 and 22.2.

#### ARTICLE XVIII ASSIGNMENT AND ADDING GRANTEE MEMBERS

18.1 Assignment by Grantee. Grantee shall not assign this IRU Agreement or its rights or obligations hereunder to any Williams Competitor. Grantee shall not add members to this IRU Agreement or assign its rights or obligations hereunder to any assignee without (a) the prior written consent of Williams, which consent shall not be unreasonably withheld, and (b) the written agreement of the assignee or the new member to be bound by the limitations on liability and recourse, the insurance and indemnification provisions set forth in this IRU Agreement, and the provisions of Section 18.4.

18.2 Assignment by Williams. Williams shall not assign this IRU Agreement or its rights or obligations hereunder to any other party other than Affiliate without (a) the prior written consent

of Grantee, which shall not be unreasonably withheld, and (b) the written agreement of the assignee to be bound by all of the obligations of Williams hereunder.

18.3 Assignments to Particular Classes of Entities. The provisions of Section 18.2 notwithstanding:

- (a) Williams may assign some or all of its rights and obligations hereunder to any lending institution or other lender as collateral.
- (b) Neither the provisions of this Article nor any other provisions of this IRU Agreement shall limit the ability of any Facility Owners/Lenders or of any Released Parties to assign their rights under this IRU Agreement and such Facility Owners/Lenders and Released Parties may assign their rights hereunder at any time and from time to time without the consent of, notice to, or any other action by any other entity. The provisions of this IRU Agreement benefitting the Facility Owners/Lenders and Released Parties shall inure to the benefit of such entities and their respective Affiliates, successors, and assigns.
- (c) Williams may assign some or all of its rights and obligations hereunder to a purchaser of substantially all of its fiber optic telecommunications systems, provided that Williams has obtained the written agreement of the assignee to be bound by all of the obligations of Williams hereunder.

18.4 Agreement Binds Successors. This IRU Agreement and the rights and obligations under this IRU Agreement (including the limitations on liability and recourse set forth in this IRU Agreement benefitting the other party and the Released Parties) shall be binding upon and shall inure to the benefit of Williams and Grantee and their respective permitted successors and assigns.

18.5 Change in Control Not an Assignment. Notwithstanding any presumptions under applicable state law that a change in control of a party constitutes an assignment of an agreement, a change in control of a party, not made for purposes of circumventing restrictions on assignment or of depriving the other party of rights under this IRU Agreement, shall not be deemed an assignment for purposes of this IRU Agreement.

## ARTICLE XIX PROHIBITION ON IMPROPER PAYMENTS

19.1 Prohibition on Improper Payments. Neither party shall use any funds received under this IRU Agreement for illegal or otherwise "improper" purposes. Neither party shall pay any commission, fees or rebates to any employee of the other party, or favor any employee of such other party with gifts or entertainment of significant cost or value. If either party has reasonable cause to



believe that one of the provisions in this Article has been violated, it, or its representative, may audit the books and records of the other party for the sole purpose of establishing compliance with such provisions.

## ARTICLE XX INSURANCE

20.1 **Obligation to Obtain.** Except as provided in section 20.5, during the Term, the parties shall each obtain and maintain not less than the following insurance, where applicable:

- (a) Commercial General Liability Insurance, including coverage for sudden and accidental pollution legal liability, with a combined single limit of \$10,000,000 for bodily injury and property damage per occurrence and in the aggregate.
- (b) Worker's Compensation Insurance in amounts required by applicable law and Employers Liability Insurance with limits not less than \$1,000,000 each accident.
- (c) Automobile Liability Insurance with a combined single limit of \$2,000,000 for bodily injury and property damage per occurrence, to include coverage for all owned, non-owned, and hired vehicles.

The limits set forth above are minimum limits and shall not be construed to limit the liability of either party. Nothing in this IRU Agreement, or its specifications for insurance, shall constitute a waiver or withdrawal of any legal, statutory or constitutional limits on liability otherwise available to the parties.

20.2 **Policy Requirements.** Each party shall obtain and maintain the insurance policies required above with companies rate A- or better by Best's Key Rating Guide or with a similar rating by another generally recognized rating agency. The other party, its Affiliates, officers, directors, and employees, and any other party entitled to indemnification hereunder shall be named as additional insureds to the extent of such indemnification. Each party shall provide the other party with an insurance certificate confirming compliance with the insurance requirements of this article. The insurance certificate shall indicate that the other party shall be notified not less than thirty (30) calendar days prior to any cancellation or material change in coverage. If either party provides any of the foregoing coverages through a claims made policy basis, that party shall cause such policy or policies to be maintained for at least three (3) years beyond the expiration of this IRU Agreement.

20.3 **Waiver of Subrogation.** The parties shall each obtain from the insurance companies providing the coverages required by this IRU Agreement a waiver of all rights of subrogation or recovery in favor of the other party and, as applicable, its members, managers, shareholders,



Affiliates, assignees, officers, directors, and employees or any other party entitled to indemnity under this IRU Agreement to the extent of such indemnity.

20.4 Blanket Policies. Nothing in this IRU Agreement shall be construed to prevent either party from satisfying its insurance obligations pursuant to this IRU Agreement under a blanket policy or policies of insurance that meet or exceed the requirements of this Article.

20.5 Exemption for Self-Insured Grantee Members. Grantee members who are self-insured shall be exempt from the requirements of subsections 20.1 through 20.4. Such members, however, shall take such actions as necessary to confer upon Williams the status of an additional insured under any plan of self insurance and shall provide Williams with a certificate reflecting such additional insured designation.

20.6 Permit Insurance. The requirements under this Article shall not alter or supercede any insurance obligation that may be set forth in any permit.

#### ARTICLE XXI STANDARD OF CARE AND INDEMNIFICATION

21.1 Standard of Care and Indemnification. The Parties understand and agree that (i) Williams has the duty to exercise reasonable care with respect to the Grantee Fibers and in its performance of each of its obligations under this Agreement and (ii) Grantee has the duty to exercise reasonable care with respect to the System and in its performance of each of its obligations under this Agreement, including its obligations under Section 5.1. Nothing in this section or in the balance of this Agreement shall be construed to limit or alter the Parties' respective rights to indemnification at law.

#### ARTICLE XXII ENTIRE AGREEMENT; AMENDMENT; EXECUTION

22.1 Integration; Exhibits. This IRU Agreement constitutes the entire and final agreement and understanding between Williams and Grantee with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect, except that the Pre-Construction Agreement shall remain in effect. The relationship between the Pre-Construction Agreement and this IRU Agreement shall be as provided in section 17.4. The Exhibits referred to herein are integral parts hereof and are made a part of this IRU Agreement by reference.

22.2 No Parole Amendment. This IRU Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of Williams

and Grantee. No such amendment, modification, or supplement shall result in any modification of (i) any indemnity benefitting any Facility Owners/Lenders or their respective Affiliates or (ii) any limitation of liability or recourse benefitting any Released Parties that is adverse to such Released Parties.

22.3 Counterparts. This IRU Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

22.4 Facsimile Delivery. This IRU Agreement may be duly executed and delivered by a party by execution and facsimile delivery of the signature page of a counterpart to the other party, provided that, if delivery is made by facsimile, the executing party shall promptly deliver a complete counterpart that it has executed to the other party.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this IRU Agreement and intending to be legally bound hereby, Williams and Grantee have executed this IRU Agreement as of the dates set forth below.

WILLIAMS COMMUNICATIONS, INC.

By: 

Print Name: DANIEL E. FLEMING  
Attorney-in-fact

Title: \_\_\_\_\_

Date: 10/27/00

THE COUNTY OF SONOMA

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

THE CITY OF SANTA ROSA

and Grantee. No such amendment, modification, or supplement shall result in any modification of (i) any indemnity benefitting any Facility Owners/Lenders or their respective Affiliates or (ii) any limitation of liability or recourse benefitting any Released Parties that is adverse to such Released Parties.

22.3 Counterparts. This IRU Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

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IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this IRU Agreement and intending to be legally bound hereby, Williams and Grantee have executed this IRU Agreement as of the dates set forth below.

WILLIAMS COMMUNICATIONS, INC.

By: 

Print Name: DANIEL E. FLEMING  
Attorney-in-fact

Title: \_\_\_\_\_

Date: 10/27/00

THE COUNTY OF SONOMA

By: 

Print Name: Mike Reilly

Title: Chair, Board of Supervisors

Date: 11/27/2000

THE CITY OF SANTA ROSA

By: Janet Condon

Print Name: JANET CONDON

Title: MAYOR

Date: 11-16-00

THE CITY OF HEALDSBURG

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

THE CITY OF CLOVERDALE

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

THE TOWN OF WINDSOR

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: Janet Condon

Print Name: JANET CONDRON

Title: MAYOR

Date: 11-16-00

THE CITY OF HEALDSBURG

By: Chet J. Wystepiek

Print Name: Chet J. Wystepiek

Title: CITY MANAGER

Date: November 27, 2000

THE CITY OF CLOVERDALE

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

THE TOWN OF WINDSOR

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: Janet Condon

Print Name: JANET CONDON

Title: MAYOR

Date: 11-16-00

THE CITY OF HEALDSBURG

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

THE CITY OF CLOVERDALE

By: Robert Jehu

Print Name: ROBERT JEHU

Title: MAYOR

Date: 12-8-00

THE TOWN OF WINDSOR

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: Janet Condron

Print Name: JANET CONDRO

Title: MAYOR

Date: 11-16-00

THE CITY OF HEALDSBURG

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

THE CITY OF CLOVERDALE

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

THE TOWN OF WINDSOR

By: Paul

Print Name: PAUL BERLANT

Title: TOWN MANAGER

Date: 11/29/00



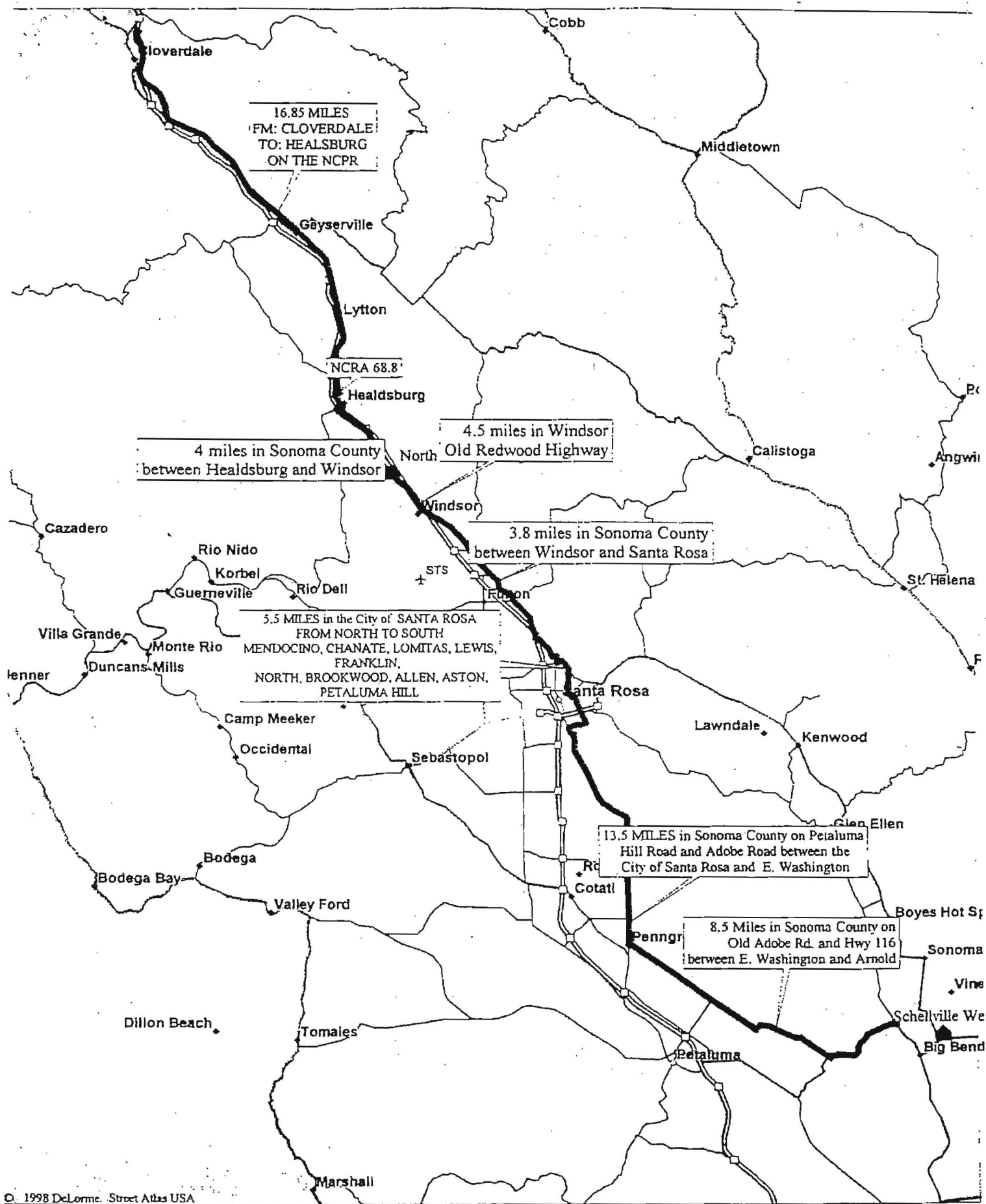


EXHIBIT A

EXHIBIT B  
Fiber Splicing, Testing and Acceptance Standards and Procedures

1. Initial Construction Testing

A. During initial construction, Williams shall use an optical time domain reflectometer ("OTDR") to test splices and shall use an OTDR and a 1-km launch reel to test pigtail connectors. Such initial construction tests shall be uni-directional and performed at 1550 nm.

B. If the loss value of two connectors and the associated pigtail splice exceeds 1 dB, Williams shall break the splice and re-splice until the loss value is 1.0 dB or less. If Williams is unable to achieve a loss value of 1.0 dB or less after five total splicing attempts, the splice shall be marked as Out-of-Spec (OOS).

C. If the loss value for a splice, when measured in one direction with an OTDR, exceeds 0.15 dB, Williams shall break the splice and re-splice until the loss value is 0.15 dB or less, provided that, if Williams is not able to achieve a loss value of 0.15 dB after three total splicing attempts, then the maximum loss value shall be 0.3 dB. If, after two additional resplicing attempts, Williams is not able to achieve a loss value of 0.3 dB or less, then Williams shall mark the splice as Out-of-Spec (OOS).

2. End-to-End Testing

A. After Williams has established end-to-end connectivity on the fibers during initial construction, it shall:

- perform bi-directional end-to-end tests,
- test continuity to confirm that no fibers have been "frogged" or crossed at any splice points,
- record loss measurements using a light source and a power meter, and
- take OTDR traces and record splice loss measurements.

B. Williams shall perform the bi-directional end-to-end tests and OTDR traces at both 1310 nm and 1550 nm, provided that 1310nm OTDR tests are not required for spans longer than 64 kilometers. Williams shall measure and verify losses for each splice point in both directions and average the loss values. Williams shall mark any splice points as Out-of-Spec (OOS) that have an average loss value, based on bi-directional OTDR testing, in excess of 0.3 dB.

### 3. Post-Construction Testing

After performing permanent resplicing (in conjunction with repair of a cable cut, replacement of a segment of cable, or other work after initial installation and splicing of the cable), the test procedures set forth in Section 2 (End-to-End Testing) of this Exhibit, shall apply to the relevant fibers and cable segments. The provisions in Sections 4 (OTDR Equipment and Settings) and 5 (Acceptance Test Deliverables) of this Exhibit, that are relevant to such testing shall also apply. Williams may, after the Acceptance Date, adopt any alternative methods of testing that are generally accepted in the industry and that provide sufficient data to fulfill the objectives of the tests set forth in this exhibit.

### 4. Out of Spec Splices

Out of Spec splices shall be noted, but shall not preclude acceptance of a fiber if the Out of Spec condition does not affect transmission capability (based on use of then prevailing telecommunications industry standards applicable to equipment generally used with the relevant type of fiber) or create a significant possibility of an outage.

### 5. OTDR Equipment and Settings

Williams shall use OTDR equipment and settings that are, in its reasonable opinion, suitable for performing accurate measurements of the fiber installed. Such equipment and settings shall include, without limitation, the Laser Precision TD3000 and CMA4000 models and compatible models for OTDR testing.

### 6. Acceptance Test Deliverables

Williams shall provide data sheets or computer media containing the following information for the relevant fibers and cable segments:

- A. Verification of end-to-end fiber continuity with power level readings for each fiber taken with a light source and power meter.
- B. Verification that the loss at each splice point is below 0.3 dB.
- C. The final bi-directional OTDR test data, with distances.
- D. Cable manufacturer, cable type (buffer/ribbon), fiber type, cable reel number, number of fibers, number of fibers per tube, and distance of each section of cable between splice points.

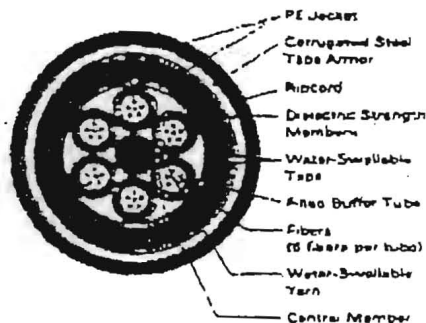
# ALTOS® Armored Cables

Siecor's ALTOS® loose tube cables are designed for outdoor and limited indoor use. The loose tube cable construction pioneered by Siecor places varying numbers of fibers in each buffer tube. The loose tube design provides stable and highly reliable transmission parameters for a variety of voice, data, video, and imaging applications. The design also provides high fiber density within a given cable diameter while allowing flexibility to suit many system designs.

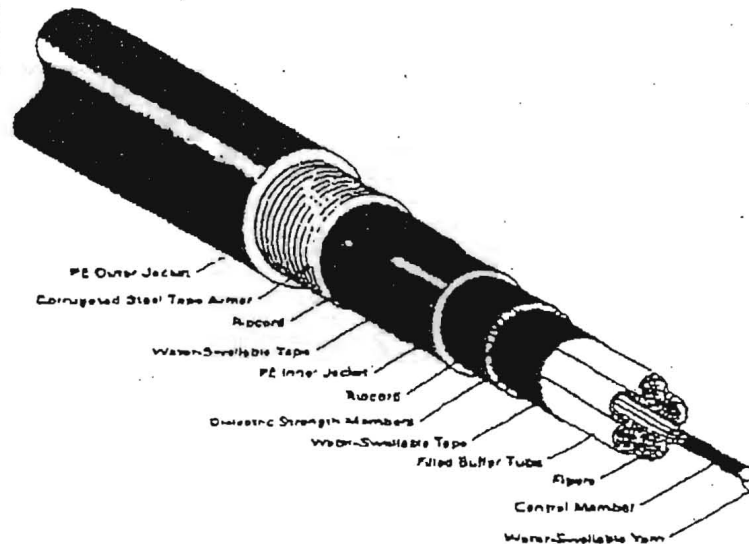
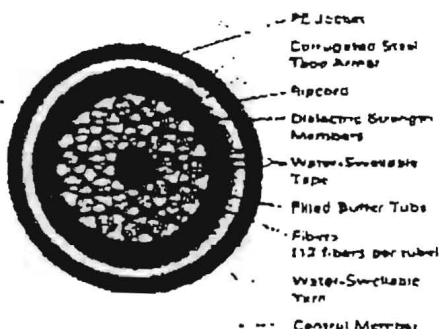
## APPLICATIONS

ALTOS cables are used in the campus backbone for outdoor duct, aerial, and direct-buried installations and for indoor use when installed in accordance with NEC® Article 770.

36-Fiber Double Jacket/  
Single Armor ALTOS Cable



288-Fiber Double Jacket/Single  
Armor High-Density ALTOS Cable



## FEATURES AND BENEFITS

- Innovative Dry™ cable with waterblocking technology eliminates the need for traditional flooding compound, providing more efficient and craft-friendly cable preparation, particularly in mid-span and/or taut jacket access applications
- Available in 62.5 µm, 50 µm, single-mode, and hybrid versions
- Standard 3.0 mm buffer tube size reduces the number of access tools required by craftspeople
- SZ-stranded, loose tube design isolates fibers from installation and environmental rigors
- Dielectric strength members have no preferential bend and require no bonding or grounding
- Single-armor construction provides additional crush and rodent protection
- Medium density PE jacket is rugged, durable, and easy to strip
- Contains Corning® InfiniCor™ fiber with guaranteed Gigabit Ethernet Performance

# LANscape

For product information updates, please visit our website at [www.siecor.com](http://www.siecor.com)

## ALTOS® Armored Cables

## SPECIFICATIONS

MAXIMUM TENSILE LOADING  
OPERATING TEMPERATURE

Installation: 2700 N (600 lbf)  
-40 to +70 °C (-40 to +158 °F)

Long-Term Installed: 890 N (200 lbf)

FIBER COUNT	NUMBER OF TUBE POSITIONS	NOMINAL WEIGHT KG/KM (LB/1000 FT)	NOMINAL OUTER DIAMETER MM (IN)	MINIMUM BEND RADIUS	
				LOADED CM (IN)	INSTALLED CM (IN)
2-4	5	220 (148)	15.8 (0.62)	22.5 (8.9)	15.0 (5.9)
5-30	5	220 (148)	15.8 (0.62)	22.5 (8.9)	15.0 (5.9)
31-36	6	240 (181)	18.5 (0.65)	23.9 (9.4)	15.9 (6.3)
37-60	5	220 (148)	15.8 (0.62)	22.7 (8.8)	15.0 (5.9)
61-72	6	240 (181)	16.5 (0.65)	23.8 (9.4)	15.9 (6.3)
73-96	8	285 (192)	18.3 (0.72)	26.7 (10.5)	17.8 (7.0)
97-120	10	345 (232)	20.3 (0.80)	29.6 (11.7)	19.8 (7.8)
121-192	16	370 (249)	21.6 (0.85)	31.7 (12.5)	21.1 (8.3)
193-216	18	406 (272)	22.5 (0.89)	33.0 (13.0)	22.0 (8.7)
217-240	20	435 (292)	23.3 (0.92)	34.4 (13.5)	22.8 (9.0)
241-288	24	510 (343)	25.5 (1.00)	37.4 (14.7)	24.9 (9.8)

## TRANSMISSION PERFORMANCE

PERFORMANCE OPTION CODE	30	50	31	01
	Gigabit Plus™ 82.5/125 µm InfiniCor™ 300 (850/1300 nm)	Gigabit Plus CL 82.5/125 µm InfiniCor CL 1000 (850/1300 nm)	50/125 µm InfiniCor 600 (850/1300 nm)	Single-mode (1310/1550 nm)
MAXIMUM ATTENUATION (dB/KM)	3.5/1.0	3.5/1.0	3.5/1.5	0.4/0.3
MINIMUM LED BANDWIDTH (MHZ*KM)	200/500	200/500	500/500	
GIGABIT ETHERNET DISTANCE GUARANTEE (M)	300/550	500/1000	600/800	5,000

## ORDERING INFORMATION

☐ ☐ ☐ ☐ W5-141 ☐ ☐ A20  
☒ ☒ ☒ ☒

Use the following options to construct the part number:

☒ SELECT FIBER COUNT.  
002 to 288

☒ SELECT FIBER TYPE.  
X = 82.5/125 µm  
C = 50/125 µm  
R = Single-mode

☒ SELECT PERFORMANCE OPTION  
CODE.  
30 = 82.5/125 µm-Gigabit Plus  
50 = 82.5/125 µm-Gigabit Plus CL  
31 = 50/125 µm  
01 = Single-mode

Note: Use with Buffer Tube Fan-Out Kit for Direct Termination Applications. Please see pages 2.2-2.3

ADDITIONAL SIECOR LITERATURE CPC-184

To order, please call a Siecor Authorized Dealer, or call Siecor at 1-800-743-2671

OCT-30-2000 15:33

92%

EXHIBIT C (PAGE 2 OF 2)

OCT-30-2000 13:24

918 593 7100

95%

## EXHIBIT D

### Operations Specifications

#### 1. Routine Maintenance

Williams shall perform the work and provide the services set forth in the following paragraphs A through D as Routine Maintenance:

A. NCC Functions. Williams shall operate a manned Network Control Center ("NCC") twenty-four (24) hours a day, seven (7) days a week that monitors the System by means of remote surveillance equipment and dispatches maintenance and repair personnel to handle and repair problems detected by the NCC or reported by Grantee or other parties. Williams shall provide Grantee a toll-free telephone number to report problems to the NCC.

B. Cable Maintenance. Williams shall perform appropriate routine maintenance on the Cable in accordance with Williams' then-current preventative maintenance procedures. Williams' preventative maintenance procedures shall not substantially deviate from industry practice.

C. Route Patrol. Williams shall patrol the Route on a reasonable, routine basis and shall perform all required Cable locates. Williams shall belong to a state or regional one-call (call-before you dig) center when available.

D. Spare Cable. Williams shall maintain an inventory of spare cable at strategic locations to facilitate timely restoration.

#### 2. Planned Network Maintenance Activity

Williams shall avoid performing maintenance between 0600-2200 local time, Monday through Friday, inclusive, that will have a disruptive impact on the continuity or performance level of the Grantee Fibers. However, the preceding sentence does not apply to restoration of continuity to a severed or partially severed fiber optic cable, restoration of dysfunctional power and ancillary support equipment, or correction of any potential jeopardy conditions.

#### 3. Fiber and Cable

A. Emergency Repair. Williams shall correct or repair Cable discontinuity or damage. Williams shall use commercially reasonable efforts to repair Cable traffic discontinuity within the following times:

- Dispatch of personnel to problem area - immediately upon learning of discontinuity
- Arrival of first maintenance employee on site - within four (4) hours of learning of discontinuity

B. Splicing Specifications. Williams shall comply with the Cable splicing specifications as provided in Exhibit C for permanent splices or with then-current reasonable industry standards.

C. Demarcation. The demarcation point between the Cable and the facilities of Grantee or other parties shall be at the Fiber distribution panel or dedicated Grantee splice enclosure in all meet-me vaults. Grantee shall have no right to access any Fibers within the Cable or to enter any splice or Williams vault without a Williams representative on site.

#### 4. Addition of Drop/Splice Points

A. Connection Request. Grantee may request in the future that Williams provide additional connection locations not listed herein, at Grantee's expense, which Williams shall consider in accordance with Subparagraph (C) below.

B. Scheduling. Grantee shall notify Williams at least thirty (30) days in advance of the date that a connection is to be completed.

C. Avoiding Risks to System. Williams may decline a connection not included in the list of connection locations described below if Williams determines, in its reasonable discretion, that there is a significant likelihood that (i) Grantee's use of a proposed connection would cause a material and adverse effect on the System or the use thereof; (ii) use of a particular splice locations will cause a significant technical impediment; or (iii) the making or existence of the connection presents an unreasonable risk of creating an interruption of transmission.

D. Connection Locations. Unless otherwise agreed to in writing, Grantee shall have no right to establish any connection to the System other than at access points along the route as follows:

a. Separate splice enclosures at the following locations:

1. Sonoma Ave. and Brookwood Ave.
2. Chanate Rd. and Mendocino Ave.
3. Petaluma Hill Rd. and Rohnert Park Expressway
4. Washington St. and Adobe Rd.
5. Corona and Adobe Rds.



6. Windsor Town Hall (9291 Old Redwood Highway)
7. Healdsburg City Hall @ railroad right-of-way
8. Cloverdale: First Street @ railroad right-of-way

b. Access to a separate/ dedicated splice enclosure co-located at the system splice location closest to the following sites:

1. Petaluma Hill Rd. and E. Cotati Avenue
2. Frates Rd. and Adobe Rd.
3. Snyder Ln. and Petaluma Hill Rd.
4. Shiloh Rd. and Old Redwood Highway
5. Arata Ln. and Old Redwood Highway
6. Hembree Ln. and Old Redwood Highway
7. Mark West Springs Rd. and Old Redwood Highway
8. Mill St. and Old Redwood Highway
9. Airport Blvd. and Old Redwood Highway
10. Citrus Fair Dr. and Old Redwood Highway
11. Old Redwood Hwy and Lavell Rd
12. Old Redwood Hwy and Wikiup Dr
13. Old Redwood Hwy and St. Rose Dr
14. Petaluma Hill Rd and Crane Canyon Rd
15. Petaluma Hill Rd and E. Railroad Ave
16. Petaluma Hill Rd and Adobe Rd
17. Petaluma Hill Rd and Roberts Rd

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E. Grantee Obligations. Grantee shall, prior to the requested connection date, provide a spur cable adequate to reach the splice location with an additional length (minimum 25 meters) sufficient for Williams to splice into any fibers at the demarcation. Grantee shall obtain and maintain the necessary rights of way (or other rights, if required) for the spur cable and shall install and maintain the spur cable beyond the demarcation point.

F. Special Connection Arrangements. Williams may require Grantee to pay the costs of maintaining any connection that presents unusual problems of access for Williams. If Grantee has a connection at a splice location and Williams requires access to Grantee Fibers for inspection, maintenance, or repair purposes and Williams does not have physical access to the Fibers to verify splicing specifications from Williams' fiber distribution panel, Grantee shall promptly upon Williams' request provide a trained and qualified technician at Grantee's fiber distribution panel with an OTDR to assist Williams in performing such inspection, maintenance, or repair.

### Contract Brief

File Number C00520  
Contract Name DARK FIBER IRU AGREEMENT  
Contract From WILLIAMS COMMUNICATIONS, INC., a Delaware corporation, ("WCI") [Grantor]  
Contract To COUNTY OF SONOMA AND CITIES OF SANTA ROSA, HEALDSBURG AND CLOVERDALE, AND TOWN OF WINDSOR, CALIFORNIA, (such governmental agencies being referred to collectively as the "Sonoma Consortium") [Grantees]  
Agreement Type IRU;  
Effective Date 12/08/2000  
Evergreen No

To Party Notice Address County of Sonoma  
Attn: County Administrator  
575 Administrative Drive, Suite 104A  
Santa Rosa, CA 95403

Other Party Notice Address City of Santa Rosa  
Attn: City Manager  
100 Santa Rosa Ave., P.O. Box 1678  
Santa Rosa, CA 95402-1678

Other Party Notice Address City of Healdsburg  
Attn: City Manager  
401 Grove Street  
Healdsburg, CA 95448

Other Party Notice Address City of Cloverdale  
Attn: City Manager  
124 N. Cloverdale Blvd., P.O. Box 217  
Cloverdale, CA 95425

Other Party Notice Address City of Windsor  
Attn: Town Manager  
9291 Old Redwood Highway, P.O. Box 100  
Windsor, CA 95492

Consideration Grant of IRU in exchange for permissions

Legal WCI System consists of: 16.85 miles from Cloverdale to Healdsburg on the North Coast Railroad; 4 miles in Sonoma County between Healdsburg and Windsor; 4.5 miles in Windsor on Old Redwood Highway; 3.8 miles in Sonoma County between Windsor and Santa Rosa; 5.5 miles in City of Santa Rosa (from north to south, Mendocino,

### Contract Brief

Chanate, Lomitas, Lewis, Franklin, North, Brookwood, Allen, Aston, Petaluma Hill; 13.5 miles in Sonoma County on Petaluma Hill Road and Adobe Road between City of Santa Rosa and E. Washington; 8.5 miles in Sonoma County on Old Adobe Road and Highway 116 between E. Washington and Arnold; approx. 40 miles, all in Sonoma County, State of California.

Term	20 Years
	If Agreement not renewed pursuant to Section 8.1, and the System (or Grantee Fibers) is not made available to Grantee pursuant to Section 8.3, then Williams shall convey the System to Grantee for a purchase price not to exceed \$100.00. (Section 8.5)
Termination	For uncured default. (Article XV)
Renewal Option	Grantee's Option to renew Agreement for two (2) 10-year renewal terms. If Williams determines extension impracticable, Williams shall assign its rights to an entity that agrees to the requested extension, offer to convey the Cable to Grantee for an amount not to exceed \$100,000, offer to convey Grantee Fibers to Grantee for amount not to exceed \$100,000, or offer to allow Grantee, alone or with other entities holdings IRUs, to operate, maintain and use the System. If Williams proposes refurbishment of System, it shall propose same 120 calendar days prior to expiration of then current term. Grantee shall have 30 calendar days after receipt of notice, to notify Williams if it elects to participate and shall reimburse Williams for incremental material and labor costs directly related to refurbishment of the Grantee Fibers. (Section 8.4)
Insurance Requirements	Each party shall maintain commercial general liability coverage with combined single limit of \$10,000,000 per occurrence and in the aggregate; statutory worker's comp coverage and employer's liability coverage with limits not less than \$1,000,000 each accident; and auto liability coverage with combined single limit of \$2,000,000 per occurrence. (Article XX)
Indemnification	Parties agree that each has the duty to exercise reasonable care with respect to the other party's facilities. (Section 21.1)
Deliverables	WCI shall provide as-builts within six (6) months after Acceptance Date. (Section 4.3)
Limitations	Restricted Use of Grantee Fibers: Grantee will not sell, lease or convey the Grantee Fibers to any Williams Competitor and will not enter into any contract for the use of the Grantee Fibers by any Williams Competitor. (Section 7.2)
Confidentiality	
Governing Law	State of California
Future Options	
Comments	Unless otherwise agreed in writing, Grantee shall have no right to establish any connection to the System other than at access points along the route specified in Exhibit D.
Assignability	Grantee shall not assign Agreement or its rights to any Williams Competitor. Grantee shall not add members to this IRU Agreement or assign its rights to any assignee without prior written consent of Williams, which consent shall not be unreasonably withheld, and the written agreement of assignee or new member to be bound by limitations on liability and recourse, insurance, indemnification provisions and Section

## Contract Brief

18.4)

Williams shall not assign Agreement or its rights to any other party other than Affiliate without prior written consent of Grantee, which shall not be unreasonably withheld and written agreement of assignee to be bound by all obligations of Williams under the Agreement. (Article XVIII)

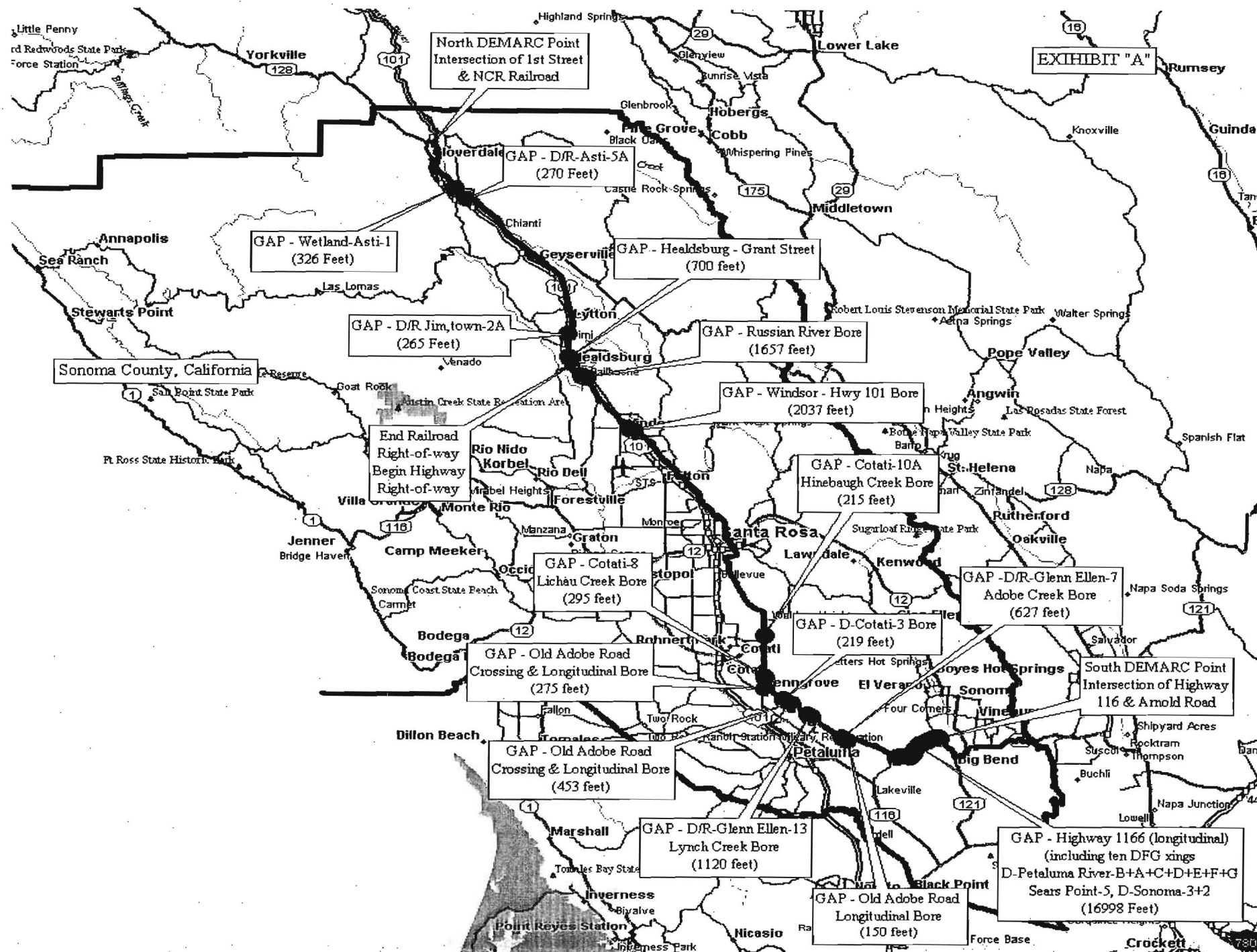
Taxes	If either party pays any tax or fee that other party is obligated to pay, the pair that paid such tax or fee shall be reimbursed by the other party. Grantee obligated to pay all taxes assessed due to the Grantee IRU, its use of the Grantee Fibers or its use of any other part of the System. (Article XIII)
Relocation	Pursuant to procedures set forth in para. 5 of the Pre-Construction Agreement (B00284). Williams shall deliver updated as-builts within 180 calendar days following completion of such relocation. (Article X)
Maintenance	Williams to perform all routine and non-routine maintenance (work with costs that exceed \$5,000 for a single event or multiple closely related events). Williams shall have no obligation to maintain, repair or replace Grantee Equipment. Grantee shall not access any part of the System without prior written consent of Williams, which consent shall not be unreasonably withheld. (Article IX)
Capacity	
Line Information	
Line Names	
Line States	
Line Counties	

## Contract Brief

### C00520 IRU

Iru Type	Swap
Third Party Name	
Line Segment	
Mileage	40.00
Capacity	Swap for permissions
IRU_Agreement	Grant to Consortium in four (4) single mode optical fibers from Cloverdale to Healdsburg; twenty-four (24) single mode optical fibers from Healdsburg to a point near Petaluma; four (4) single mode optical fibers point near Petaluma to a point on Williams' Route near Town of Sonoma
IRU Line Components	
IRU Line Names	
IRU Line States	
IRU Line Counties	







**ENCROACHMENT PERMIT RIDER**

TR-0122 (REV 3/92)

Collected by	Permit No. (Original) 0401-6UT0121
Rider Fee Paid	Dist/Co/Rte/PM 04-Sol/Son-Var Var
Date August 31, 2001	Rider Number 0401-NRD2205

TO: ☐ Williams Communications, Inc.  
916 Shiloh Road, Building 1  
Windsor, CA 95492

Attn: Ms. Amie Dodd

Phone: (707) 836-9414

☐ , PERMITTEE

In compliance with your request of August 27, 2001, we are hereby amending the above numbered encroachment permit as follows:

Reference your project to: bore and install fiber optic cable on State Highways 04-Sol/Son-Var, at various Post Miles, in the Counties of Solano and Sonoma.

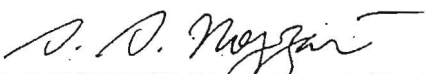
Date of completion extended to: August 31, 2002.

Except as amended, all other terms and provisions of the original permit shall remain in effect.

APPROVED:

HARRY Y. YAHATA, District Director

BY:

  
S. S. NOZZARI, District Permit Engineer

**ENCROACHMENT PERMIT RIDER**

TR-0122 (REV 3/92)

Collected by	Permit No. (Original)
	0401-6UT0121
Rider Fee Paid	DST/Co/Rte/PM
\$	04-Son/Sol-Var Var
Date	Rider Number
March 5, 2001	0400-NRD0593

TO: ☐ WILLIAMS COMMUNICATIONS, INC.  
916 Shiloh Road, Building 1  
Windsor, CA 95492

Attn: Pete Caldwell

Phone: (559)325-9659

☐ , PERMITTEE

In compliance with our request of February 27, 2001, we are hereby amending the above numbered encroachment permit as follows:

Reference your project to: bore and install fiber optic cable on State Highways 04-Son/Sol-Var, at various Post Miles, in the Counties of Sonoma and Solano.

In Solano County, this permit authorizes Williams Communications, Inc. to work only on State Routes 04-Sol-80/680, Post Miles 11.92, 44.00/12.69, and in Sonoma County on State Routes 04-Son-12/101, Post Miles 16.5/34.88.

Except as amended, all other terms and provisions of the original permit shall remain in effect.

APPROVED:

HARRY Y. YAHATA, District Director

BY:

S. S. NOZZARI, District Permit Engineer

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
**ENCROACHMENT PERMIT**  
TR-0120

Permit No.  
0401-6UT0121

Dist/Co/Rte/PM  
04-Son/Sol-Var Var

Date  
February 13, 2001

Fee Paid (Review)  
\$240.00

Deposit (Inspection)  
\$2000.00

Performance Bond Amount (1)  
\$

Payment Bond Amount (2)  
\$

Bond Company

Bond Number (1)

Bond Number (2)

In compliance with (Check one):

- ☒ Your application of January 8, 2001
- ☐ Utility Notice No. \_\_\_\_\_ of \_\_\_\_\_
- ☐ Agreement No. \_\_\_\_\_ of \_\_\_\_\_
- ☐ R/W Contract No. \_\_\_\_\_ of \_\_\_\_\_

TO: ☐ WILLIAMS COMMUNICATIONS, INC.  
916 Shiloh Road, Building 1  
Windsor, CA 95492

Attn: Pete Caldwell  
Phone: (559)325-9659

☐ , PERMITTEE

and subject to the following, **PERMISSION IS HEREBY GRANTED** to:

Bore and install fiber optic cable on State Highways 04-Son/Sol-Var, at various Post Miles, in the Counties of Sonoma and Solano.

Two days before work is started under this permit, notice shall be given to, and approval of construction details, operations, public safety, and traffic control shall be obtained from State Representative Dave Dowdy, at (707) 576-2857, 202 Fourth Street, Santa Rosa, CA 95401, weekdays between 7:30 AM and 4:00 PM.

When working in Solano County, contact Preetbir Walia at (707)428-2004, 2019 West Texas Street, Fairfield, CA 94533, weekdays between 7:30 AM and 4:00 PM.

**Immediately following completion of the work permitted herein, the Permittee shall fill out and mail the Notice of Completion attached to this permit.**

The following attachments are also included as part of this permit (Check applicable):

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | General Provisions                                  |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | Utility Maintenance Provisions                      |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | Special Provisions                                  |
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | A Cal-OSHA permit required prior to beginning work: |
|   |  | # _____   |

In addition to fee, the permittee will be billed actual costs for:

- |   |  |            |
|---|--|------------|
| <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No | Review     |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | Inspection |
| <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            | Field Work |

(If any Caltrans effort expended)

☒ Yes ☐ No The information in the environmental documentation has been reviewed and considered prior to approval of this permit.

This permit is void unless the work is completed before August 31, 2001.

This permit is to be strictly construed and no other work other than specifically mentioned is hereby authorized.

No project work shall be commenced until all other necessary permits and environmental clearances have been obtained.

APPROVED:

HARRY Y. YAHATA, District Director

BY:

  
S. S. NOZZARI, District Permit Engineer

## ENCROACHMENT PERMIT RIDER

TR-0122 (REV. 5/92)

CA-ME-803

Collected By  
DISTRICT CASHIERPermit No.  
0199-6-UK-0478Rider Fee Paid  
\$70.00Dist/Co/Rte/PM  
1-MEN-1;128-15.18/21.40;  
36.57/50.90Date  
12/28/00Rider Number  
0100-6-RT-0612PERMIT EXPIRES  
DECEMBER 31, 2001

TO:

WILLIAMS COMMUNICATION, INC.  
916 SHILOH ROAD, BLDG. 1  
WINDSOR, CA 95492Amie  
ATTEN: ARNIE L. DODD  
PHONE: (707) 836-9414

, PERMITTEE

In compliance with (your) request of DECEMBER 22, 2000 we are hereby amending the above numbered encroachment permit as follows:Date of completion extended to: DECEMBER 31, 2001

PLEASE NOTE THAT THE ORIGINAL ENCROACHMENT PERMIT NO. IS 0199-6-UK-0478 RATHER THAN THE 0199-N-UK-0478 REFERENCED IN YOUR LETTER DATED DECEMBER 19, 2000.

Except as amended, all other terms and provisions of the original permit shall remain in effect.

TOM PITTMAN  
GW SHELDON  
JOHN CARSON  
JC MAASEN BUCHIGNANI  
SW BOWLES  
DL HARMON  
SERGIO MENDOZARBM  
Permit WriterFILE  
Doug Moorehead

APPROVED:

Rick Knapp, District Director

BY:

Royal B. McCarthy, P.E., District Permit Engineer

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
**ENCROACHMENT PERMIT**  
TH-0120 (REV. 5/92)

In compliance with (Check one):

☒ Your application of **SEPTEMBER 7, 1999**

☐ Utility Notice No. \_\_\_\_\_ of \_\_\_\_\_

☐ Agreement No. \_\_\_\_\_ of \_\_\_\_\_

☐ R/W Contract No. \_\_\_\_\_ of \_\_\_\_\_

Permit No. <b>0199-N-UK-0478</b>	
Dist/Co/Rte/PM <b>1-MEN-1;128-15.18/21.40 ; 36.57/50.90</b>	
Date <b>May 12, 2000</b>	
Fee Paid <b>\$ 2345.00</b>	Deposit <b>\$ 3355.00</b>
Performance Bond Amount (1) <b>\$</b>	Performance Bond Amount (2) <b>\$</b>
Bond Company 	
Bond Number (1) 	Bond Number (2) 

TO:

WILLIAMS COMMUNICATION, INC.  
418 AVIATION BLVD.  
SANTA ROSA, CA 95403  
ATTEN: CHRIS SAVAGE  
PHONE: (707) 528-4690

**PERMIT EXPIRES**  
**DECEMBER 31, 2000**

, PERMITTEE

and subject to the following, PERMISSION IS HEREBY GRANTED to

enter the State highway right of way from Post Mile 15.18 to Post Mile 21.40 of State Route 1-MEN-1 and from Post Mile 36.57 to Post Mile 50.90 of State Route 1-MEN-128 to install underground fiber optic communications cable per the attached Permittee plans received by the Caltrans Permits Office May 11, 2000.

JERRY SHELDON, ASSISTANT PERMIT ENGINEER AT UKIAH, 707-463-4743, SHALL BE NOTIFIED BEFORE WORK STARTED AS REQUIRED IN GENERAL PROVISION NO. 6.

THE CALTRANS ELECTRICAL SUPERVISOR AT BRACUT, (707)-825-0590, SHALL BE NOTIFIED 3 WORKING DAYS BEFORE WORK IS TO BEGIN SO ANY CALTRANS ELECTRICAL FACILITIES MAY BE LOCATED.

THIS PERMIT IS VALID IN MENDOCINO COUNTY ONLY. PLANS INCLUDED THAT SHOW LOCATIONS OUTSIDE MENDOCINO COUNTY ARE NOT APPROVED BY THIS PERMIT.

THE PERMITTEE SHALL CONTACT THE RESIDENT ENGINEER, SERGIO MENDOZA (707-485-5479) TO COORDINATE WORK WITH CALTRANS CONTRACT EA 349904, "REALIGN CURVE", FROM POST MILE 43.7 TO 44.0 OF STATE ROUTE 1-MEN-128.

The following attachments are also included as part of this permit  
(Check applicable):

<input checked="" type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	General Provisions
<input type="checkbox"/> Yes	<input type="checkbox"/> No	Utility Maintenance Provisions
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Special Provisions E.P. UTIL PROVISIONS
<input checked="" type="checkbox"/> *Yes	<input type="checkbox"/> No	A Cal-OSHA permit required prior to beginning work

\* If work is done in trenches deeper than 1.52m (5')

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The information in the environmental documentation has been reviewed and is considered prior to approval of this permit.
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In addition to fee, the permittee will be billed actual costs for:

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Review
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Inspection
<input checked="" type="checkbox"/> Yes		Field Work

(If any Caltrans effort expended)

This permit is void unless the work is complete before **DECEMBER 31, 2000**

This permit is to be strictly construed and no other work other than specifically mentioned is hereby authorized.

No project work shall be commenced until all other necessary permits and environmental clearances have been obtained.

TOM PITTMAN	EN BUCHIGNANI
GW SHELDON	SW BOWLES
JOHN CARSON	DL HARMON
JC MAAS	SERGIO MENDOZA
RBM	FILE

Permit Writer: J. A. Pena

APPROVED:

RICK KNAPP, District Director

BY:

ROYAL B. MCCARTHY, P.E., District Permit Engineer

PERMITTEE: WILLIAMS COMMUNICATION  
PERMIT #: 0100-6-MC-00478  
05/16/00

THE PERMITTEE SHALL CONTACT THE SENIOR CONSTRUCTION ENGINEER, MIC RESTAINO (707-485-8307) TO COORDINATE WORK WITH GOING CALTRANS CONSTRUCTION CONTRACTS IN MENDOCINO, COUNTY.

THE DISTRICT PUBLIC INFORMATION OFFICER, EILEEN MYLES AT 707/445-6444 SHALL BE CONTACTED TWO WEEKS IN ADVANCE OF THE BEGINNING OF WORK. THE PUBLIC INFORMATION OFFICER SHOULD BE USED TO NOTIFY THE LOCAL NEWS MEDIA OF THE PROJECT SCHEDULING AND PLANNED TRAFFIC DELAYS.

THE PERMITTEE SHALL SCHEDULE AN ON-SITE PRE-JOB CONFERENCE PRIOR TO THE BEGINNING OF WORK. THE MEETING SHALL INCLUDE (BUT IS NOT LIMITED TO) THE PERMITTEE'S CONSTRUCTION REPRESENTATIVE, CONTRACTOR'S SUPERVISORS AND GW SHELDON THE CALTRANS ASSISTANT PERMIT ENGINEER AT UKIAH.

ALL PERSONNEL WORKING IN THE CALTRANS RIGHT OF WAY SHALL WEAR HARD HATS AND SAFETY VESTS AND OTHER APPROPRIATE SAFETY GEAR AND EQUIPMENT.

USA-N (Underground Service Alert - North) shall be notified at 1-800-642-2444 2 working days before work begins.

In addition to the attached Encroachment Permit General Provisions, Form TR-0045 (REV 8/98) the following special provisions are applicable:

I UTILITIES

A ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE CURRENT DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS AND THE DEPARTMENT OF TRANSPORTATION ENCROACHMENT PERMIT UTILITY PROVISIONS DATED AUGUST 1998 EXCEPT FOR THE FOLLOWING MODIFICATIONS:

1. In the event of a discrepancy between the plans and this Encroachment Permit the Encroachment Permit shall take precedence as approved by Gerald Sheldon, Assistant Permit Engineer at Ukiah. In addition the final alignment and grade of Permittee facility shall be approved by Gerald Sheldon, Assistant Permit Engineer at Ukiah before installation.
2. The Permittee shall submit Construction Details for trenches, culvert crossings and waterway crossings for approval by Gerald Sheldon, Assistant Permit Engineer at Ukiah before installation.
3. On State Route 1-MEN-1 the minimum depth of cover over the top of the Permittee's installation shall be 2.5 m (8').
4. On State Route 1-MEN-128 the minimum depth of cover over the top of the Permittee's installation shall be 1.3 m (4').
5. Minimum vertical clearance of 0.6 m (2') shall be maintained between the Permittee's installation and any drainage facilities (including but not limited to drainage inlets, drainage ditches and culverts) and Caltrans underground utilities. If less than 0.6 m (2') is necessary, approval must be obtained from the Permit Inspector and the utility shall be encased in concrete 3.1 m (10') each side of the drainage facility or underground Caltrans utility.
6. The minimum clearance from the traveled way (fog stripe) shall not be less than 0.9 m (3').
7. Minimum horizontal clearance of 0.6 m (2') shall be maintained between utilities and Caltrans structures (including but not limited to bridges) except as approved by the Jerry Sheldon, Caltrans Assistant Permit Engineer at Ukiah.
8. A continuous metallic detector strip shall be provided for the length of all non-metallic utilities installed in the right of way in accordance with provision UG7 of the Underground Utility Provisions of the attached Encroachment Permit Utility Provisions.
9. All highway crossings shall be installed by the boring method only unless otherwise approved by Jerry Sheldon, Caltrans Assistant Permit Engineer at Ukiah.

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10. Directional bore crossings must be encased in steel conduits unless otherwise approved by only after approval by the Caltrans Permit Inspector prior to placement.
11. Transverse open-cut crossings are prohibited by this permit.
12. A videotape of the entire route (within the Caltrans rights of way) shall be filmed by the Permittee or his Contractor in advance of the beginning of work in the right of way and submitted to Jerry Sheldon, Caltrans Assistant Permit Engineer at Ukiah. The video shall show existing highway facilities including but not limited to signs, drainage facilities, culvert and Post Mile markers. The video shall be of sufficient clarity to read legends and numbers if any.
13. All cable shall be placed in ducts.
14. "Flowing in" of cable is prohibited by this permit.
15. Permittee manholes shall be a minimum of 2.5 m (8') from the edge of the traveled way and shall be placed to the line and grades approved by Jerry Sheldon, Caltrans Assistant Permit Engineer at Ukiah.
16. Any approved longitudinal trenching in the traveled way shall require that the entire width of the paved highway shall be over layed with 50 mm (2") of commercial grade hot-mixed asphalt concrete and tapered for a distance of 23 m (75') from each end of the overlay to conform to existing pavement grade.
17. Crossings at private and public road approaches shall be performed by methods and schedules, which provide the least amount of delay and inconvenience to users. Residents and businesses shall be provided a minimum of 2 days notice prior to the Permittee's activities blocking their access.
18. Markers shall be placed on both sides of the highway at all crossings and at intervals not to exceed 300 m (1000') along the route of the fiber optic cable. The markers shall be provided with the following features:
  - a) Be placed as close to the Caltrans right of way as possible.
  - b) Not be a traffic hazard.
  - c) Face traffic.
  - d) Shall have a weather proof label containing the following information:
    - 1) Type of utility
    - 2) Depth and distance of utility from a recognizable reference point on the marker.
  - e) Comply with Caltrans Clear Recovery Zone breakaway standards if within 6 m (20') of the traveled way and classified as a fixed object.

## II. DRILLING PLAN

1. A minimum of two weeks prior to the intended start of work the Permittee shall submit a Drilling Plan. Work shall not commence until the Drilling Plan is approved in writing by Jerry Sheldon, Caltrans Assistant Permit Engineer at Ukiah. In accordance with provision UG2 of the Underground Utility Provisions of the attached Encroachment Permit Utility Provisions the drilling plan shall contain the following information:
  - a) Entry and exit locations
  - b) Radius of curvature
  - c) Locations and clearances of all other facilities
  - d) Depth of cover
  - e) General description of soil
  - f) Excavation dimensions



g) State right of way lines

h) Elevations

i) Tracking method and system to be used

j) A plan for monitoring ground surface (settlement and heave) which may result from the drilling operation.

2. Monitoring the surface for heave /settlement shall be performed prior to, during and after the drilling and pulling of conduit and shall be recorded. Documentation of the monitoring shall be provided to Caltrans upon completion of each boring site.

### III. EXISTING HIGHWAY FACILITY REPLACEMENT REQUIREMENTS

1. Pavement markings, including striping that is destroyed by the Permittee operations shall be replaced in kind.
2. Highway signing removed or destroyed by the Permittee's operations shall be replaced in kind as directed by the Caltrans Permit Inspector.
3. The work area, including but not limited to drainage ditches shall be restored to a neat, clean condition and all debris shall be removed from the State highway right of way.

### IV. EXCAVATION PROTECTION REQUIREMENTS

1. The Permittee shall submit a "Trenching and Shoring Safety Plan" to Jerry Sheldon, Assistant Permit Engineer a minimum of two weeks prior to the anticipated start of work. The "Trench Shoring Safety Plan" must be approved by Caltrans prior to the start of work. The shoring plan shall provide the following information:
  - a) Type of shoring to be used.
  - b) Manufacturers tabulated data and specifications for the shoring signed by a Registered Civil Engineer.
  - c) Soils classification as determined by a Registered Civil Engineer or the name of the individual trained to classify soils that will be on the job site.
  - d) Assurance that the competent person or Engineer who will determine the surcharge loading will be on site.
  - e) A copy of the Permittee/Contractors valid excavation permit.
2. All excavations shall be back filled and able to support legal highway loads prior to the end of the work shift, or:
  - a) Accessible and unattended excavations must be protected by means of steel cover plates or 1.8 m (6') high construction fencing.
  - b) Open excavations within 3.7 m (12') of the traveled way shall be protected at all times by means of: 1) traffic control and flaggers; 2) temporary railing (Type K); 3) adequately thick steel cover plates or a combination of the above as directed by the Caltrans Permit Inspector.
  - c) Vertical deviations of 50 mm (2") or greater shall be tapered to existing grade with a 12:1 slope by the end of each shift.
3. The Permittee or his contractor shall saw cut or grind asphalt concrete to neat lines the width of the trench prior to excavating. Immediately prior to back filling to the top of the trench with asphalt concrete a second saw cut shall be made 150 mm (6") outside the edge of the trench on each side and the "spoils" removed. This area shall then be back filled as part of the original trench.
4. Steel cover plates shall not be placed longitudinal to the highway in multi-plate applications. Steel plates must:
  - a) be approved in advance by the Caltrans Permit Inspector.

- b) be adequate to support legal highway loads, (Note: a 1" thick steel plate shall not be used for trenches exceeding 1.1 m (42") in width)
- c) have a non-skid treatment on the surface.
- d) be pinned or doweled in place.
- e) ramped with compacted Asphalt Concrete.
- f) not be bent or warped.
- g) be welded together in multi plate applications.

#### V. BACKFILL REQUIREMENTS

1. All trenches within the structural section of the roadway including paved road approaches shall be back filled with "Slurry Cement Backfill" to within 150 mm (6") of the surface. The top 150 mm (6") shall be back filled with hot mixed asphalt concrete placed in a minimum of two-lifts in accordance Section 39-6.01 of the Caltrans Standard Specifications dated July 1999 in the areas of paving. The Slurry Cement Backfill shall conform to Section 19-3.062 of the Caltrans Standard Specifications dated July 1999 and shall contain 110 kg of cement per cubic meter of material produced (188 pounds of cement per cubic yard of material produced).
2. If the existing location has been surfaced with Open Graded Asphalt Concrete the surfacing shall be replaced in kind to the existing lines and grades.
3. In areas where "Slurry Backfill" is used the trench "Bedding" shall be limited to 150 mm (6") above the top of the conduit.
4. Pea gravel shall not be used in trenches within the Caltrans right of way.
5. Backfill at non-paved road approaches and under sidewalks shall be "Slurry Cement Backfill" conforming to Section 19-3.062 of the Caltrans Standard Specifications dated July 1999 and shall contain 110 kg of cement per cubic meter of material produced (188 pounds of cement per cubic yard of material produced) unless Class II Aggregate Base compacted to 95 % Relative Compaction is approved by the Caltrans Permit Inspector.
6. Backfill in areas of native soil shall consist of Class II Aggregate Base or other material approved in advance by the Caltrans Permit Inspector. Trench backfill shall have adequate moisture to be compacted to 90 % relative compaction. Native material may be used if approved in advance by the Caltrans Permit Inspector.
7. Backfill in unpaved shoulders shall consist of Class II Aggregate Base compacted to 95 % Relative Compaction, unless the ground slope is 3 % or more (measured longitudinal to the trench) backfill shall be "Slurry Cement Backfill" conforming to Section 19-3.062 of the Caltrans Standard Specifications dated July 1999 or high strength low density material of an approved Caltrans mix design that is approved in advance of being incorporated in the work. by Jerry Sheldon, Assistant Permit Engineer at Ukiah.
8. The Permittee/ Contractor shall provide compaction test results as requested by the Caltrans Permit Inspector.
9. When non-slurry backfill is used a warning tape shall be placed 0.3 m (1') below finish grade.
10. Permittee's Contractor shall have vendors provide "Certificates of Compliance" for concrete and slurry material utilized.

#### VI. TREE REMOVAL

1. This permit prohibits the removal of trees. A tree is defined as 100 mm (4") in diameter at breast height (ABH) or over 6.1 m. in height.
2. If the Permittee wishes to remove any trees, the trees must be identified, listed and submitted to Caltrans for approval via the Encroachment Permit process.
3. No tree roots over 75 mm (3") in diameter will be cut within the tree drip-line when trenching in the vicinity of trees. Roots exposed shall be protected and wrapped with wet burlap until reburied.

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4. Any excavation performed within the tree drip-line shall be done under the supervision of a certified arborist or the boring operation shall be conducted at a sufficient depth not to cause damage to the roots.

#### VII. EROSION CONTROL & WATER POLLUTION REQUIREMENTS

1. The Permittee/ Contractor shall submit a "Storm Water Pollution Prevention Plan" to Jerry Sheldon, Assistant Permit Engineer at Ukiah a minimum of two weeks prior to the anticipated start of work. Caltrans must approve the "Storm Water Pollution Prevention Plan" prior to the start of work within the Caltrans right of way.
2. All water generated by work operations shall be contained, filtered or removed to a proper disposal site, including water from saw cutting operations. Only clean water shall be allowed to enter drainage inlets or waterways. All soil exposed by work operations shall be protected from erosion, and from causing the transport of sedimentation.
3. Raw, disturbed soil shall be seeded, fertilized and mulched for erosion control as approved by the Caltrans Permit Inspector. silt fences straw wattles, etc. shall be placed as directed by the Caltrans Permit Inspector to prevent siltation and waterways.
4. The Permittee/Contractor shall provide evidence of compliance with Mendocino County and California state agency requirements for material spoils generated on Caltrans right of way and disposed of off the right of way. California Storm Water Pollution Prevention and Water Pollution Control requirements shall apply to disposal sites off the Caltrans right of way.

#### VIII. TRAFFIC CONTROL REQUIREMENTS

1. The Permittee shall submit a "Traffic Management Plan" to Jerry Sheldon, Assistant Permit Engineer at Ukiah a minimum of two weeks prior to the anticipated start of work. Caltrans must approve the "Traffic Management Plan" prior to the start of work within the Caltrans right of way. In addition to highway traffic the "Traffic Management Plan" must address traffic control across the Russian River and Dooley Creek Bridges during Permittee operations.
2. All traffic control shall conform to the State of California, Department of Transportation; "MANUAL OF TRAFFIC CONTROLS FOR CONSTRUCTION & MAINTENANCE WORK ZONES-REVISION 1" dated 1996 (Chapter 5 of the current Caltrans Traffic Manual).
3. Except for installing, maintaining and removing traffic control devices, whenever work is performed or equipment is operated in the following work areas the Permittee shall close the adjacent traffic lane:

Approach speed of public  
traffic (Posted Limit)  
(Miles per Hour)

Work Area

Over 45

Within 1.8 m (6') of  
a traffic lane but not  
on a traffic lane.

35 to 45

Within 0.9 m (3') of  
a traffic lane but not  
on a traffic lane.

4. For work performed outside the distances described in (3) above the shoulder shall be closed in accordance with the attached Caltrans Standard Plan T-10, "SHOULDER CLOSURE" illustration unless an alternate traffic control plan providing better protection is approved by the Caltrans Permit Inspector.
5. If the Permittee utilizes the attached Caltrans Standard Plan T-13 for two-way traffic control two flaggers for each direction of travel shall be required.
6. When flaggers are not present trucks shall not back on or off the highway.
7. When flaggers are present the full complement of signs as required by the "MANUAL OF TRAFFIC CONTROLS FOR CONSTRUCTION AND MAINTENANCE WORK ZONES-REVISION 1" DATED 1996 shall be in place.

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8. One-way control will be required for much of the work on this project. One-way traffic control shall not exceed 1000 meters in length between KP 24.4 (PM 15.2) and KP 34.4 (PM 21.8) on Route 1 in Mendocino County. Between KP 24.4 (PM 15.2) and KP 24.6 (PM 15.3), no lane closures shall be permitted between the hours of 8 a.m. and 9 p.m., and no work that interferes with public traffic shall be performed between July 1, and the Labor Day Weekend.
9. One-way traffic control shall not exceed 1000 meters in length between KP 59.3 (PM 36.9) and KP 77.5 (PM 48.2), and KP 78.5 (PM 48.8) to the Sonoma County Line on Route 128 in Mendocino County. One-way control shall not exceed 500 meters in length between KP 58.8 (PM 36.6) and KP 59.3 (PM 36.9), and between KP 77.5 (PM 48.2) and KP 78.5 (PM 48.8). At Fish Rock Road, at Mountain House Road, and at Route 253 intersections with Route 128, one-way control shall not take place on more than one leg of the intersection at a time.
10. SEE THE ATTACHED LANE CLOSURE CHARTS FOR THE TRAFFIC CONTROL RESTRICTIONS IN CHART FORMAT.
11. To minimize cumulative delays, the contractor shall not have more than one location of one-way control on Route 1, and not have more than one location of one-way control on Route 128, and not have more than one location of one-way control on Route 253 within the project limits at any one time.
12. When work or traffic queues extend through an intersection, additional flaggers will be required to control traffic at the intersection.
13. For any planned work where the traveled way is narrowed to less than 4.42 m (14.5') in width, 15-day advance notice to the Permits Inspector is required.
14. The full width of the traveled way shall be open for use by public traffic on Saturdays, Sundays, designated legal holidays and the day preceding designated legal holidays, after 3:00 p.m. on Fridays and when construction operations are not actively in progress. If a legal holiday falls on a Monday the full width of the traveled way shall be open on the preceding Friday.
15. By Noon Monday, the Permittee/Contractor shall submit to Jerry Sheldon, Assistant Permit Engineer a written schedule of planned closures for the following week period, defined as Friday Noon through the following Friday Noon. The term closure, as used herein, is defined as the closure of a traffic lane or lanes, including ramp or connector lanes, within a single traffic control system. The Closure Schedule shall show the locations and times when the proposed closures are to be in effect. The Contractor shall use the attached Closure Schedule request forms furnished by the Engineer. Closure Schedules submitted to the Engineer with incomplete, unintelligible or inaccurate information will be returned for correction and resubmittal. The Contractor will be notified of disapproved closures or closures that require coordination with other parties as a condition of approval.
16. Due to the curvilinear alignment of this highway, a minimum of four flaggers will be required at all times (a slow and stop flagger at each end of the project).
17. Any emergency service agency whose ability to respond to incidents will be affected by any lane closure must be notified prior to that closure.
18. Bicycles shall be accommodated through the work zones. Where available roadway width allows, a 1.2-meter shoulder shall be provided through the segments of one-way traffic control.
19. Work on this project should be coordinated with the County of Mendocino, the City of Point Arena, and the City of Ukiah.
20. All temporary traffic control signing shall be removed at the end of workday prior to the hours of darkness.
21. The Permittee/Contractor shall submit a written request for approval of any anticipated night work. The request shall include a Traffic Plan specifically for night operations.
22. The Permittee shall provide instruction to all flaggers regarding the attached Caltrans, "Flagging Instruction Handbook" dated April 1999. Additional copies are available through the Caltrans Publications Distribution Unit, 1900 Royal Oaks Drive, Sacramento, CA 95815-Telephone (916) 445-3520 Fax # (916) 324-8997.
23. All work within the Caltrans right of way shall be performed safely for public traffic and completed in accordance with the above traffic control requirements.

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Chart No. 1																										
Two Lane Conventional Highway Lane Requirements																										
Location: Mendocino Route 1 from KP 24.4 (PM 15.2) to KP 24.6 (PM 15.3)																										
FROM HOUR TO HOUR	a.m.													p.m.												
	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	
Mondays through Thursdays																										
Fridays																										
Saturdays																										
Sundays																										
Day before designated legal holiday																										
Designated legal holidays																										

Legend:



A minimum of one paved traffic lane shall be open for use by public traffic



No work that interferes with public traffic will be allowed.

REMARKS: Length of one-way reversible control shall not exceed 1000 meters.  
 No work that interferes with Public Traffic shall be performed between July 1, and Labor Day Weekend.

Chart No. 2																										
Two Lane Conventional Highway Lane Requirements																										
Location: Mendocino Route 1 from KP 24.6 (PM 15.3) to KP 34.4 (PM 21.8)																										
FROM HOUR TO HOUR	a.m.													p.m.												
	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	
Mondays through Thursdays																										
Fridays																										
Saturdays																										
Sundays																										
Day before designated legal holiday																										
Designated legal holidays																										

Legend:



A minimum of one paved traffic lane shall be open for use by public traffic



No work that interferes with public traffic will be allowed.

REMARKS: Length of one-way reversible control shall not exceed 1000 meters.

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Chart No. 3																									
Two Lane Conventional Highway Lane Requirements																									
Location: Mendocino Route 128 from KP 59.3 (PM 36.9) to KP 77.5 (PM 48.2), and KP 78.5 (PM 48.8) to KP 81.9 (PM 50.9)																									
FROM HOUR TO HOUR	a.m.												p.m.												
	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
Mondays through Thursdays																									
Fridays																									
Saturdays																									
Sundays																									
Day before designated legal holiday																									
Designated legal holidays																									

Legend:



A minimum of one paved traffic lane shall be open for use by public traffic



No work that interferes with public traffic will be allowed.

REMARKS: Length of one-way reversible control shall not exceed 1000 meters.

Chart No. 4 Two Lane Conventional Highway Lane Requirements																									
Location: Mendocino Route 128 from KP 58.8 (PM 36.6) to KP 59.3 (PM 36.9), and KP 77.5 (PM 48.2) and KP 78.5 (PM 48.8)																									
FROM HOUR TO HOUR	a.m.												p.m.												
	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
Mondays through Thursdays																									
Fridays																									
Saturdays																									
Sundays																									
Day before designated legal holiday																									
Designated legal holidays																									

Legend:



A minimum of one paved traffic lane shall be open for use by public traffic



No work that interferes with public traffic will be allowed.

REMARKS: Length of one-way reversible control shall not exceed 500 meters.  
 At the Fish Rock Road and at the Mountain House Road intersections with Route 128, one-way traffic control shall not be performed on more than one leg of the intersection at a time.



**IX. ENVIRONMENTAL**

1. The Permittee's attention is directed to Section 26, "ARCHEOLOGICAL" of the Encroachment Permit General Provisions
2. The Permittee's attention is directed to Section 12, "PERMITS FROM OTHER AGENCIES" of the Encroachment Permit General Provisions. The Permittee shall provide copies of all environmental permits (including but not limited to a confirmation letter from the National Marine Fisheries Service, United States Fish & Wildlife Services and California Department Fish & Game that the project complies with the End Species Act) to Jerry Sheldon, Assistant Permit Engineer at Ukiah before working in areas covered by the permit.

**X. GENERAL**

1. In addition to the above conditions, Permittee understands and acknowledges that the conditions, limitations, restrictions and reservations for access to state-owned highway right of way for telecommunications and information technologies and information technologies, including consideration and means of access, are subject to current and on-going Departmental and/or legislative review, and this permit may be revoked, made subject to different conditions, limitations, restrictions and reservations, or converted to a license, lease or other form of agreement, upon reasonable notice.
2. Two sets of As-built plans shall be provided to Caltrans upon completion of the project.
3. **FEES FOR THIS PERMIT ARE BASED ON ACTUAL REVIEW HOURS AND ACTUAL INSPECTION HOURS. AS OF THE ISSUE DATE OF THIS PERMIT A DEPOSIT OF \$5700.00 HAS BEEN COLLECTED. THE ACTUAL REVIEW FEE ACCRUED IS \$ 2345.00 (33.5 HOURS TIMES THE STANDARD HOURLY RATE OF \$70.00 PER HOUR). THE ACTUAL INSPECTION FEE WILL BE BILLED UPON COMPLETION OF WORK AND WILL BE CALCULATED USING THE ACTUAL INSPECTION HOURS TIMES THE STANDARD HOURLY RATE OF 70.00 PER HOUR.**
4. The Permittee's attention is directed to Section 19, "RIGHTS OF WAY CLEAN UP" of the Encroachment Permit General revisions. This includes but is not limited to drainage facilities.
5. The Permittee's attention is directed to Section 10, "PERMIT AT WORKSITE" of the Encroachment Permit General revisions.
6. **NOTE: IF THE WORK COVERED BY THIS PERMIT IS NOT COMPLETED BY THE COMPLETION DATE SHOWN, AN ENCROACHMENT PERMIT RIDER WILL BE REQUIRED FOR A TIME EXTENSION.**
7. **UPON COMPLETION OF THE WORK, PLEASE FILL IN THE ATTACHED POST CARD AND MAIL AT ONCE.**



STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
**ENCROACHMENT PERMIT**  
TR-0120

Permit No.

0401-6UJ0238

Dist/Co/Rte/PM

04-Son/Sol-101/12 29.5/4.66

Date

February 14, 2001

Fee Paid (Review)

\$240.00

Deposit (Inspection)

\$320.00

Performance Bond Amount (1)

\$

Payment Bond Amount (2)

\$

Bond Company

Bond Number (1)

Bond Number (2)

In compliance with (Check one):

☒ Your application of January 9, 2001

☐ Utility Notice No. \_\_\_\_\_ of \_\_\_\_\_

☐ Agreement No. \_\_\_\_\_ of \_\_\_\_\_

☐ R/W Contract No. \_\_\_\_\_ of \_\_\_\_\_

TO: ☐ WILLIAMS COMMUNICATIONS, INC.  
916 Shiloh Road, Building 1  
Windsor, CA 95492

Attn: Pete Caldwell

Phone: (559)325-9659

, PERMITTEE

and subject to the following, **PERMISSION IS HEREBY GRANTED** to:

Bore and install fiber optic cable on State Highways 04-Son/Sol-101/12, Post Miles 29.5/4.66; in Sonoma County.

Two days before work is started under this permit, notice shall be given to, and approval of construction details, operations, public safety, and traffic control shall be obtained from State Representative Dave Dowdy, at (707) 576-2857, 202 Fourth Street, Santa Rosa, CA 95401, weekdays between 7:30 AM and 4:00 PM.

When working on Highway 12 in Solano County, contact Preetbir Walia at (707)428-2004, 2019 West Texas Street, Fairfield, CA 94533, weekdays between 7:30 AM and 4:00 PM.

Immediately following completion of the work permitted herein, the Permittee shall fill out and mail the Notice of Completion attached to this permit.

The following attachments are also included as part of this permit (Check applicable):

☒ Yes ☐ No General Provisions  
☒ Yes ☐ No Utility Maintenance Provisions  
☐ Yes ☒ No Special Provisions  
☐ Yes ☒ No A Cal-OSHA permit required prior to beginning work:  
# \_\_\_\_\_

In addition to fee, the permittee will be billed actual costs for:

☐ Yes ☒ No Review  
☒ Yes ☐ No Inspection  
☒ Yes ☐ No Field Work

(If any Caltrans effort expended)

☐ Yes ☒ No The information in the environmental documentation has been reviewed and considered prior to approval of this permit.

This permit is void unless the work is completed before August 31, 2001.

This permit is to be strictly construed and no other work other than specifically mentioned is hereby authorized.

No project work shall be commenced until all other necessary permits and environmental clearances have been obtained.

APPROVED:

HARRY Y. YAHATA, District Director

BY:

  
S. S. NOZZARI, District Permit Engineer

NAME: Williams Communications,  
PERMIT #: 0401-6UJ0238  
DATE: February 14, 2001

All utility work shall be performed in accordance with the Department of Transportation Encroachment Permit Utility, Tree Trimming and Tree Removal Provisions dated August 1998 and as required in the following provisions.

Permittee shall stay at least 4.6 meters (15') away from bridge columns.

Traffic control requests (Lane Closure Requirement Chart) on freeways shall be submitted to the State representative a minimum of 10 working days in advance and not more than 15 days in advance. Traffic control must be approved and lane closure numbers assigned prior to implementing traffic control.

When required to establish a survey grid, traffic control on freeways is authorized only between sunrise and 9:00 AM on Sundays. Permittee shall make arrangements with California Highway Patrol at permittee's expense.

Permittee shall be allowed to enter access-controlled areas (Freeways & Expressways) for monitoring purposes only when the State representative gives authorization. Permittee's personnel shall not be allowed to encroach onto the paved shoulder or the traveled way at any time unless lane or freeway closures have been approved and implemented.

Manholes or other junctions are NOT allowed within the State right-of-way for this crossing.

High density polyethylene (HDPE) pipe may be used as casings in place of steel casing.

Permittee's contractor shall apply for a duplicate Encroachment Permit for the work authorized therein, and the application shall be accompanied by a \$160.00 check to cover the permit processing fee.

Prior to issuing the contractor's permit, operators of Horizontal and Directional Drilling equipment shall submit a copy of Caltrans proof of training form TR0770 issued by the manufacturer of the equipment. A copy of the form along with photo identification shall be kept with the operator and submitted to the State's representative upon demand.

Permittee's personnel shall wear white hard hats and orange or approved lime-green vests.

Any change or damage to any existing facilities, landscaping, irrigation or drainage pattern, whether occasioned by increase or diversion, and the cost of any damage, repairs or restoration within the State's right-of-way shall be the responsibility of the permittee.

Traffic control is not allowed as part of this permit unless authorized by the State representative.

All other traffic control requests must be submitted and approved 48 hours in advance.

Contact State representative for clarification on required traffic control procedures.

Detailed pipe calculations confirming the ability of the product pipe to withstand installation loads and long term operational loads, including H20, shall be submitted to the State Representative prior to start of work.

Permittee shall ensure that the appropriate equipment is provided to facilitate the installation, in particular, the drill rig shall have sufficient capacity to meet required installation loads determined by detailed pipe calculations. Permittee shall ensure the drill rod is able to meet bend radii required for the installation. The drill rig should have the ability to provide pull loads, push loads, and torque loads necessary for the installation. Permittee shall monitor loads during installation to assure allowed pipe loads are not exceeded.

During construction, continuous monitoring and plotting of pilot drill progress shall be undertaken to ensure compliance with the proposed installation alignment and allow for appropriate course corrections to be undertaken that would minimize "dog legs" should the bore start to deviate from the intended bore path.

Monitoring shall be accomplished by manual plotting based on location and depth readings provided by the locating/tracking system, or by computer generated bore logs which map the bore path based on information provided by the location/tracking system.

NAME: Williams Communications, L  
PERMIT #: 0401-6UJ0238  
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Monitoring of the drilling fluids such as the pumping rate, pressures, viscosity, and density during the pilot bore, back reaming, an/or pipe installation stages, shall be undertaken to ensure adequate removal of soil cuttings and the stability of the bore hole is maintained. Excess drilling fluids shall be contained at entry and exit points until recycled or removed from the site. Entry and exit pits should be of sufficient size to contain the expected return of drilling fluids and soil cuttings, or fluids shall be continuously vacuumed and placed into a storage container for removal. All fluids and soil cuttings shall be removed from State right-of-way and disposed of in accordance with Local, State, and Federal Laws.

The permittee shall ensure that all drilling fluids are disposed of in a manner acceptable to the appropriate local, state, or federal regulatory agencies. When drilling in contaminated ground excess material shall be tested for contamination and disposed of appropriately.

Restoration of damage to any highway or non-highway facility caused by the directional drilling operation do to heaving, settlement, escaping drilling fluid ("fracout"), or other damage shall be the responsibility of the permittee.

To minimize heaving during pullback, the pull back rate shall be determined which maximizes the removal of soil cuttings and minimizes compaction of the ground surrounding the borehole. The pullback rate shall also minimize over cutting of the bore hole during the back reaming operation to ensure excessive voids are not created resulting in post installation settlement.

To prevent future settlement should the drilling operation be unsuccessful the permittee shall backfill any void(s) with grout or backfill by other means acceptable to the State Representative.

Trench backfill shall conform to section 19-3.06 of the State's Standard Specifications. Tests for relative compaction may be made in accordance with California Test Method No. 231 (Nuclear Gauge). Any base, surfacing or pavement shall be replaced in kind, or as otherwise directed by the State Representative.

PONDING AND JETTING IS NOT ALLOWED.

Permittee's attention is directed to section 7-1.01G Water Pollution of the Standard Specifications. Before starting any work, the Contractor shall submit for acceptance by the State Representative, a program to control water pollution effectively during the construction of the project.

PERMITTOR RESERVES THE RIGHT TO IMPOSE ANY ADDITIONAL REQUIREMENTS OR CONDITIONS, INCLUDING CONSIDERATION, FOR THE USE OF ITS RIGHT OF WAY, IF SUCH REQUIREMENTS OR CONDITIONS ARE ALLOWED BY FUTURE LEGISLATION, ADMINISTRATIVE DETERMINATIONS, AND/OR COURT DECISIONS.

#### Temporary Steel Plate Bridging—With a Non-Skid Surface

When backfilling operations of an excavation in the traveled way, whether transverse or longitudinal cannot be properly completed within a work day, steel plate bridging with a non-skid surface and shoring may be required to preserve unobstructed traffic flow. In such cases, the following conditions shall apply:

1. Steel plate bridging on freeways is not allowed.
2. Steel plates used for bridging must extend a minimum of 300mm (12") beyond the edges of the trench and shall be installed to operate with minimal noise.
3. Temporary paving with cold asphalt concrete shall be used to feather the edges of the plates, if plate installation by Method (2) described below, is used.
4. Bridging shall be secured against displacement by using adjustable cleats, shims, or other devices.
5. The trench shall be adequately shored to support the bridging and traffic loads.
6. Steel plates used in the traveled portion of the highway shall have a surface that was manufactured with a nominal Coefficient of Friction (COF) of 0.35 as determined by California Test Method 342.
7. All steel plates within the State right-of-way whether used in or out of the traveled way shall be without deformation.

NAME: Williams Communications,  
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DATE: February 14, 2001

As required by the posted speed limit (black on white, or 55 MPH if not posted) steel plate bridging and shoring shall be installed using either Method (1) or (2):

**Method 1 [ For speeds more than 70 Km /hr-(45 mph)]:**

The pavement shall be cold planed to a depth equal to the thickness of the plate and to a width and length equal to the dimensions of the plate.

**Method 2 [For Speeds 70 Km/hr (45 mph) or less]:**

Approach plate(s) and ending plate (if longitudinal placement) shall be attached to the roadway by a minimum of 2 dowels pre-drilled into the corners of the plate and drilled 50mm (2") into the pavement. Subsequent plates are butted to each other and welded. Fine graded asphalt concrete shall be compacted to form ramps, maximum slope 8.5 % with a minimum 300mm (12") taper to cover all edges of the steel plates. When steel plates are removed, the dowel holes in the pavement shall be backfilled with either graded fines of asphalt concrete mix, concrete slurry or an equivalent slurry that is satisfactory to the State Representative.

Permittee is responsible for maintenance of the steel plates, shoring, and asphalt concrete ramps.

Unless specifically approved by the State Representative, steel plate bridging shall not exceed 4 consecutive working days in any given week. Backfilling of excavations shall be covered with a minimum 75mm (3 inches) temporary layer of cold asphalt concrete until final saw cutting and paving can take place. Excavated areas covered with cold asphalt concrete shall be maintained to assure ruts and pot holes are not created. At the direction of the State Representative the excavations shall be covered with a minimum of 75mm (3 inches) hot asphalt concrete until final saw cutting and paving can take place.

Changes to the Plans, Specifications, and Permit Provisions are not allowed without prior approval from the State's Representative.

STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION  
ENCROACHMENT PERMIT GENERAL PROVISIONS  
TR-0045 (REV. 8/98)

1. **AUTHORITY:** The Department's authority to issue encroachment permits is provided under, Div. 1, Chpt. 3, Art. 1, Sect. 660 to 734 of the Streets and Highways Code.
2. **REVOCATION:** Encroachment permits are revocable on five days notice unless otherwise stated on the permit and except as provided by law for public corporations, franchise holders, and utilities. These General Provisions and the Encroachment Permit Utility Provisions are subject to modification or abrogation at any time. Permittees' joint use agreements, franchise rights, reserved rights or any other agreements for operating purposes in State highway right of way are exceptions to this revocation.
3. **DENIAL FOR NONPAYMENT OF FEES:** Failure to pay permit fees when due can result in rejection of future applications and denial of permits.
4. **ASSIGNMENT:** No party other than the permittee or permittee's authorized agent is allowed to work under this permit.
5. **ACCEPTANCE OF PROVISIONS:** Permittee understands and agrees to accept these General Provisions and all attachments to this permit, for any work to be performed under this permit.
6. **BEGINNING OF WORK:** When traffic is not impacted (see Number 35), the permittee shall notify the Department's representative, two (2) days before the intent to start permitted work. Permittee shall notify the Department's Representative if the work is to be interrupted for a period of five (5) days or more, unless otherwise agreed upon. All work shall be performed on weekdays during regular work hours, excluding holidays, unless otherwise specified in this permit.
7. **STANDARDS OF CONSTRUCTION:** All work performed within highway right of way shall conform to recognized construction standards and current Department Standard Specifications, Department Standard Plans High and Low Risk Facility Specifications, and Utility Special Provisions. Where reference is made to "Contractor and Engineer," these are amended to be read as "Permittee and Department representative."
8. **PLAN CHANGES:** Changes to plans, specifications, and permit provisions are not allowed without prior approval from the State representative.
9. **INSPECTION AND APPROVAL:** All work is subject to monitoring and inspection. Upon completion of work, permittee shall request a final inspection for acceptance and approval by the Department. The local agency permittee shall not give final construction approval to its contractor until final acceptance and approval by the Department is obtained.
10. **PERMIT AT WORKSITE:** Permittee shall keep the permit package or a copy thereof, at the work site and show it upon request to any Department representative or law enforcement officer. If the permit package is not kept and made available at the work site, the work shall be suspended.
11. **CONFLICTING ENCROACHMENTS:** Permittee shall yield start of work to ongoing, prior authorized, work adjacent to or within the limits of the project site. When existing encroachments conflict with new work, the permittee shall bear all cost for rearrangements, (e.g., relocation, alteration, removal, etc.).
12. **PERMITS FROM OTHER AGENCIES:** This permit is invalidated if the permittee has not obtained all permits necessary and required by law, from the Public Utilities Commission of the State of California (PUC), California Occupational Safety and Health Administration (Cal-OSHA), or any other public agency having jurisdiction.
13. **PEDESTRIAN AND BICYCLIST SAFETY:** A safe minimum passageway of 1.21 meter (4') shall be maintained through the work area at existing pedestrian or bicycle facilities. At no time shall pedestrians be diverted onto a portion of the street used for vehicular traffic. At locations where safe alternate passageways cannot be provided, appropriate signs and barricades shall be installed at the limits of construction and in advance of the limits of construction at the nearest crosswalk or intersection to detour pedestrians to facilities across the street.
14. **PUBLIC TRAFFIC CONTROL:** As required by law, the permittee shall provide traffic control protection warning signs, lights, safety devices, etc., and take all other measures necessary for traveling public's safety. Day and night time lane closures shall comply with the Manuals of Traffic Controls, Standard Plans, and Standard Specifications for traffic control systems. These General Provisions are not intended to impose upon the permittee, by third parties, any duty or standard of care, greater than or different from, as required by law.
15. **MINIMUM INTERFERENCE WITH TRAFFIC:** Permittee shall plan and conduct work so as to create the least possible inconvenience to the traveling public; traffic shall not be unreasonably delayed. On conventional highways, permittee shall place properly timed flagger(s) to stop or warn the traveling public in compliance with the Manual of Traffic Controls and Instructions to Flaggers Pamphlet.
16. **STORAGE OF EQUIPMENT AND MATERIALS:** Equipment and material storage in State right of way shall comply with Standard Specifications, Standard Plans, and Special Provisions. Whenever the permittee places an obstacle within 3.63 m (12') feet of the traveled way, the permittee shall place temporary railing (Type K).
17. **CARE OF DRAINAGE:** Permittee shall provide alternate drainage for any work interfering with an existing drainage facility in compliance with the Standard Specifications, Standard Plans and/or as directed by the Department's representative.
18. **RESTORATION AND REPAIRS IN RIGHT OF WAY:** Permittee is responsible for restoration and repair of State highway right of way resulting from permitted work (State Streets and Highways Code, Sections 670 et. seq.).
19. **RIGHT OF WAY CLEAN UP:** Upon completion of work, permittee shall remove and dispose of all scrap, brush, timber, materials, etc. off the right of way. The aesthetics of the highway shall be as it was before work started.
20. **COST OF WORK:** Unless stated in the permit, or a separate written agreement, the permittee shall bear all costs incurred for work within the State right of way and waives all claims for indemnification or contribution from the State.
21. **ACTUAL COST BILLING:** When specified in the permit, the Department will bill the permittee actual costs at the currently set hourly rate for encroachment permits.
22. **AS-BUILT PLANS:** When required, permittee shall submit one (1) set of as-built plans in compliance with Department's requirements. Plans shall be submitted within thirty (30) days after completion and approval of work.  
  
As-Built plans or accompanying correspondence shall not include disclaimer statements of any kind. Such statements shall constitute non-compliance with these provisions. Failure to provide complete and signed As-Built plans shall be cause for bond or deposit retention by the Department.
23. **PERMITS FOR RECORD PURPOSES ONLY:** When work in the right of way is within an area under a Joint Use Agreement (JUA) or a Consent to Common Use Agreement (CCUA), a fee exempt permit is issued to the permittee for the purpose of providing a notice and record of work. The Permittee's prior rights shall be preserved without the intention of creating new or different rights or obligations. "Notice and Record Purposes Only" shall be stamped across the face of the permit.
24. **BONDING:** The permittee shall file bond(s), in advance, in the amount set by the Department. Failure to maintain bond(s) in full force and effect will result in the Department stopping of all work and revoking permit(s). Bonds are not required of public corporations or privately owned utilities, unless permittee failed to comply with the provision and conditions under a prior permit. The surety company is responsible for any latent defects as provided in California Code of Civil Procedures, Section 337.15. Local agency permittee shall comply with requirements established as follows: In recognition that project construction work done on State property will not be directly funded and paid by State, for the purpose of protecting stop notice claimants and the interests of State relative to successful project completion, the local agency permittee agrees to require the construction contractor furnish both a payment and performance bond in the local agency's name with both bonds complying with the requirements set forth in Section 3-1.02 of State's current Standard Specifications before performing any project construction work. The local agency permittee shall defend, indemnify, and hold harmless the State, its officers and employees from all project construction related claims by contractors and all stop notice or mechanic's lien claimants. The local agency also agrees to remedy, in a timely manner and to State's satisfaction, any latent defects occurring as a result of the project construction work.
25. **FUTURE MOVING OF INSTALLATIONS:** Permittee understands and agrees to rearrange a permitted installation upon request by the Department, for State construction, reconstruction, or maintenance



**CUSTOMER SERVICE QUESTIONNAIRE**

TR-0166 (REV. 3/98)

PERMIT NUMBER

0401-6450238

Dear Customer,

Our goal is to provide the best service possible to our customers. Please take a few minutes to complete this questionnaire. Your comments will enable us to see how we are doing overall and any areas which may need improvement.

**PLEASE TELL US HOW WE'RE DOING**

INSIDE THE OFFICE	EXCELLENT	VERY GOOD	GOOD	POOR
Staff courteous and helpful				
Staff quick and efficient				
Explanations and instructions clear				
<b>TELEPHONE ANSWERING</b>				
Timely response				
Receiving information or answers				
<b>INSPECTION</b>				
Inspector courteous and helpful				
Pre-construction meeting set and held in a timely manner				
Inspector at job site frequently				
Inspector able to answer questions and deal with problems				
<b>OVERALL PERFORMANCE</b>				
What would you say is our overall performance?				
Is there a staff person you would like to commend?	STAFF'S NAME			

COMMENTS:

NAME (Optional)

BUSINESS PHONE NUMBER

( )

DATE

## BILL OF SALE

**WITEL COMMUNICATIONS, LLC**, a Delaware limited liability company ("Seller"), in consideration of the provisions of the Settlement Agreement and Mutual Release being executed concurrently herewith, does hereby sell, assign, transfer and set over unto the County of Sonoma, the Cities of Santa Rosa, Healdsburg and Cloverdale, and the Town of Windsor all of its right, title and interest in and to the blue Dura\_line SDR-1,1 1/2" nominal size, 1.554 inside diameter,  $1.900 \pm 0.006$  outside diameter, 0.173 minimum all, 0.194 maximum wall, 16" radius bend, 3,211 lbs. safe working pull strength, 0.396 weight/foot, conduit, ("Innerduct") installed along portions of the route depicted in the map attached as a exhibit hereto; there are gaps in the route where no conduit is installed; the distances shown in the map are approximate.

Seller hereby represents and warrants to Buyer that Seller is the absolute owner of the Innerduct, that the same is free and clear of all liens, charges and encumbrances, and that Seller has full right, power and authority to sell said Innerduct and to make this Bill of Sale.

The Property sold and conveyed hereunder is sold "AS IS, WHERE IS", without warranty, express or implied, as to the condition, quality, merchantability, or fitness thereof for a particular purpose, except as expressly set forth in said Settlement Agreement and Mutual Release being executed concurrently herewith SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale this \_\_\_\_ day of \_\_\_\_\_, 2005.

**WITEL COMMUNICATIONS, LLC**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_