

**FIRST AMENDMENT TO DARK FIBER IRU  
BETWEEN OMU AND THE COMMONWEALTH**

This First Amendment to the Dark Fiber Indefeasible Right of Use ("IRU") Agreement between the City Utility Commission of the City of Owensboro, Kentucky, d/b/a Owensboro Municipal Utilities and the Commonwealth of Kentucky dated January 10, 2018 ("Agreement") is made effective this \_\_\_\_ day of September 2018 by the City Utility Commission of the City of Owensboro, Kentucky ("OMU") and the Commonwealth of Kentucky ("Commonwealth") ("First Amendment").

WHEREAS, OMU and the Commonwealth wish to amend the Agreement to specify the amount to be paid by the Commonwealth to OMU for the installation labor costs provided for in Section 3.3(b) to reflect the actual cost of the labor procured by OMU in compliance with Chapter 45A of the Kentucky Revised Statutes, to adjust the amount to be paid to OMU for pole attachment costs in Section 3.3(c), and to adjust the dates specified in Section 4.1(d) and Section 4.3;

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

1. **Section 3.3**, subsections (b) and (c), of the Agreement are amended by replacing the language of each of these subsections in their entirety with the following provisions:

(b) \$296,976 representing the amount of the successful bid for the installation labor costs procured by and the contract to be awarded by OMU, pursuant to KRS Chapter 45A. The Commonwealth shall pay this amount to OMU within thirty (30) days of the completion of the Backbone installation;

(c) \$189,342 for pole attachment costs for the Term of this IRU payable to OMU upon its award of a contract for the installation of the Fiber, as provided in subsection (b), supra, and including Commonwealth's attachment of its Fiber to OMU pole number 186-14 and its maintenance of that Fiber; and

2. **Section 4.1**, subsection (d), of the Agreement is amended by replacing the language of this subsection in its entirety with the following language:

(d) OMU will make all Sites available to Commonwealth on or before December 31, 2018.

3. **Section 4.3** of the Agreement is amended by replacing the language of this Subsection in its entirety with the following language:

**Fiber Acceptance Testing.** Exhibit D sets forth Fiber Acceptance Testing procedures and test deliverables that OMU shall provide to Commonwealth and procedures for determining the Acceptance Date of the Commonwealth Fibers. Notwithstanding the foregoing, the installation of all Commonwealth Fibers shall, subject to **Section 4.3** meet the Acceptance Standards as described in **Exhibit D** on or before December 31, 2018.

APPROVED BY UTILITY COMMISSION

3/21/19

Bms

Except as expressly modified by the parties in this First Amendment, the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

THE CITY UTILITY COMMISSION  
OF THE CITY OF OWENSBORO,  
KENTUCKY, D/B/A OWENSBORO  
MUNICIPAL UTILITIES

By: JT Fulkerson  
Name: J.T. Fulkerson  
Title: Chairman

Attest:  
By: Ted E. Lolley  
Name: Ted Lolley, Secretary

Date: 3/21/19

COMMONWEALTH OF KENTUCKY

By: William M. Landrum III  
Name: William M. Landrum III  
Title: Secretary, Finance and  
Administration Cabinet

Date: 02 October 2018

REVIEWED FOR FORM AND LEGALITY

By: Patrick W. McGee  
Name: Patrick W. McGee  
Title: Acting General Counsel,  
Finance and Administration Cabinet