

AGREEMENT

AGREEMENT (the "Agreement") made and entered into as of April 11th, 2023 by and between the County of Woodbury, Iowa (the County) and FiberComm, L.C. ("FiberComm").

Background

A. The County has installed two (2) 16/13mm 4-Way HDPE Micro-Ducts (underground conduit) in the northern right of way along 28th street in Sioux City, IA from Lewis Blvd. to Outer Dr., approximately 6,550 feet. See Exhibit B.

B. FiberComm owns and operates a Fiber optic vault in the right of way located on the northwest corner the intersection of 28th & Lewis Blvd. FiberComm

C. The County owns and utilizes one twenty four (24) count Micro-Fiber cable from 28th & Lewis Blvd. vault to the entrance of the Woodbury County Law Enforcement Center at 3701 28th St., Sioux City, IA.

D. The parties have agreed that FiberComm will provide locating and repair services for the underground facilities along 28th St. between Lewis Blvd. and Outer Dr. See Exhibit B.

Terms

NOW, THEREFORE, the parties agree as follows:

1. Obligations of the County.

(a) The County will own the existing County Conduits described in Background Paragraph A. and Fiber Optic cable described in Background Paragraph C.

2. Grant of Rights to FiberComm. The County grants FiberComm the unconditional use, right, and license to operate and maintain four (4) micro fiber strands within the 24 count Micro-Fiber cable between 28th & Lewis Blvd. vault entrance of the Woodbury County Law Enforcement Center at 3701 28th St., Sioux City, IA.

3. Obligations of the County. The County grants FiberComm the right and license to operate and maintain up to four (4) Micro-Fiber strands within the 24 count Micro-Fiber cable between 28th & Lewis Blvd. vault entrance of the Woodbury County Law Enforcement Center at 3701 28th St., Sioux City, IA..

4. Obligations of FiberComm.

(a) FiberComm will provide Iowa One Call locating, maintenance of conduit, ten (10) vaults, and fiber along 28th St. between 28th & Lewis Blvd. vault and the 28th & Outer Dr. vault. See Exhibit B.

(b) FiberComm will provide County 24 x 7 On Call service and phone number for the exclusive purpose to notify FiberComm of maintenance and repair issues. FiberComm will respond to all such calls within two hours. In the event FiberComm's ability to respond is inhibited as a result of storms, flooding, fire, tornadoes, earthquakes, or similar phenomenon, FiberComm will make every reason effort to respond as soon as possible. Once FiberComm has responded, assessed the situation, and has determined that repairs are required, FiberComm will take the appropriate steps to initiate repairs by either contacting a qualified contractor or perform the necessary repairs itself. In addition, FiberComm will notify the County of the situation, its plan to repair, and estimated time to repair.

(c) Repair costs, unless damage caused by FiberComm, shall be charged to Woodbury County on a time and materials basis and must be approved by County prior to FiberComm performing the repairs. For all repairs, FiberComm will provide a detailed invoice with explanation of damages and repairs. If repair costs are due to the actions of a 3rd party, FiberComm will cooperate with County in County's collection of the repair costs from the 3rd party. The cooperation from FiberComm, shall include, upon request, reasonable assistance with County and its attorneys in the prosecution or defense of any investigation, litigation, arbitration or administrative proceeding, including participation in interviews with the County's staff and attorneys, appearing for depositions, testifying in administrative, judicial or arbitration proceedings, or any other reasonable participation necessary for the prosecution or defense of any such investigation, litigation, arbitration or administrative proceeding.

In the event the conduit must be relocated for a public improvement FiberComm will provide relocation design, provide estimate of costs, and oversee the relocation. Cost to relocate will be charged to the Woodbury County. FiberComm shall not perform work on a relocation without prior approval by County.

(d) FiberComm agrees to require all general contractors who may perform any work for FiberComm under the terms of this agreement to post a payment bond with a surety by a company licensed to do business in the State of Iowa guaranteeing payment of all subcontractors and suppliers of the general contractor. In the event that FiberComm does not comply with this paragraph, it shall become a personal guarantor of the general contractor's obligations. This requirement is specifically provided for the benefit of third parties.

(e) In no event shall FiberComm be liable to the County for any interruptions to service or interference with the operations of the County's services or business. In no event shall the County be liable to FiberComm for any interruptions to service or interference with the operations of FiberComm's services or business.

5. Term. This Agreement shall be for an initial term of 10 years. After the initial term, this Agreement shall automatically renew for additional five year periods unless one of the Parties shall, within the first half of the final year of the Agreement, give written

notice to the Party of the Agreement, which they wish to renegotiate certain terms of this Agreement or will no longer participate or be part of this Agreement.


6. Indemnification. To the extent permitted by law, the County shall defend at its own expense, indemnify and hold harmless FiberComm from all claims and liability due to activities of persons employed by or representing the County. FiberComm agrees that it shall defend at its own expense, in the name and on behalf of the County, and shall indemnify and save harmless the County from any and all claims, suits, losses, damages, costs or expenses, to the extent caused or contributed to by the negligence of FiberComm or its contractor(s), on account of injury or damage to any person or property, caused or occasioned or allegedly caused or occasioned, in whole or in part, by reason of or arising out of the construction, excavation, operation or maintenance of the ducts and fiber permitted by this agreement.

7. Miscellaneous.

(a) This Agreement, and any related written agreement that expressly references this Agreement, constitutes the entire agreement of the parties with respect to the conduits, ducts, fiber and services, and the parties' rights and obligations with respect thereto and supersedes and cancels all prior discussions, arrangements, or agreements, written and oral, with respect to those subjects.

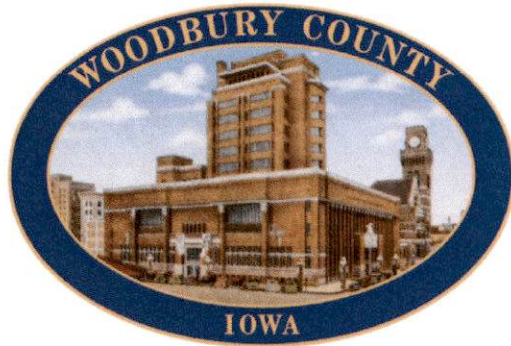
IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

WOODBURY COUNTY, IOWA

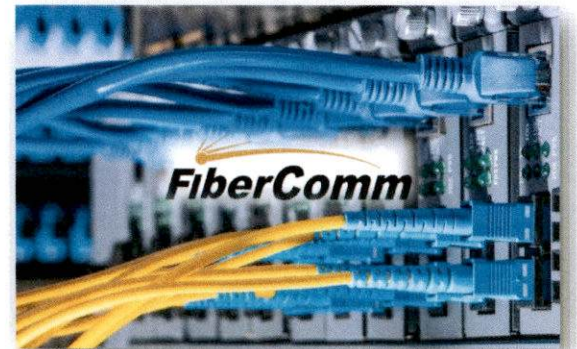
By 
NAME Matthew Ung
Chairman, Woodbury County Supervisors

FIBERCOMM, L.C.

By 
Jeff Zyzda
Director of Operations & Engineering



WOODBURY COUNTY
28TH ST
FIBER OPTIC IMPROVEMENTS
WOODBURY COUNTY, IOWA



712-224-2020
1605 9th St.
Sioux City, IA

PROJECT: Woodbury County 28th St. - Exhibit B Locating Services Route

DATE: MAR 2023 CONTACT: Jeff Zyzda, jzyzda@fibercomm.net SCALE: Not to Scale PAGE: 1 of 8



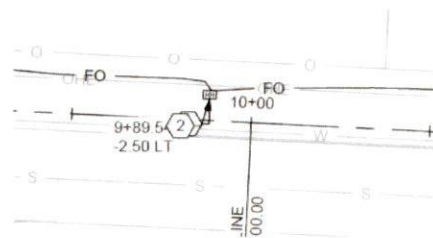
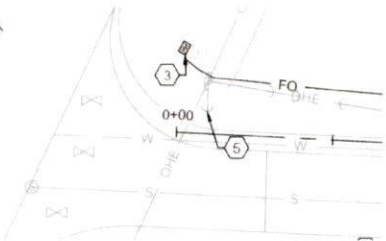
Overview

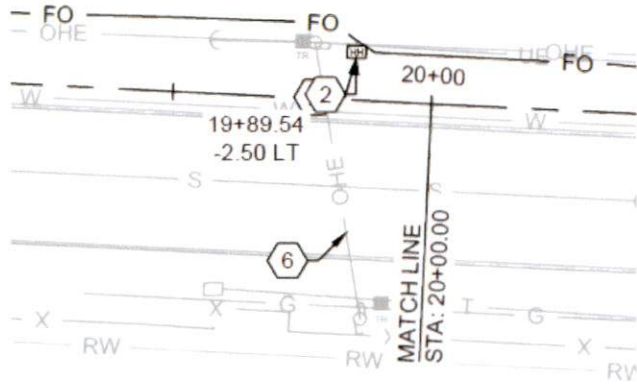
6,550' Approximately
 Depth: TBD
 (2) 16/13mm 4-Way HDPE
 MICRO-DUCT
 Fiber Count: 24F
 (Lewis to Outer Dr.)





LEWIS BOULEVARD
(BUSINESS US HWY 75)

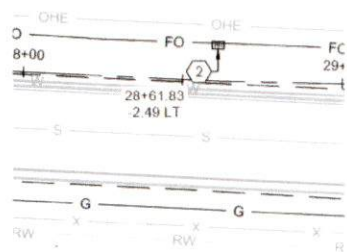




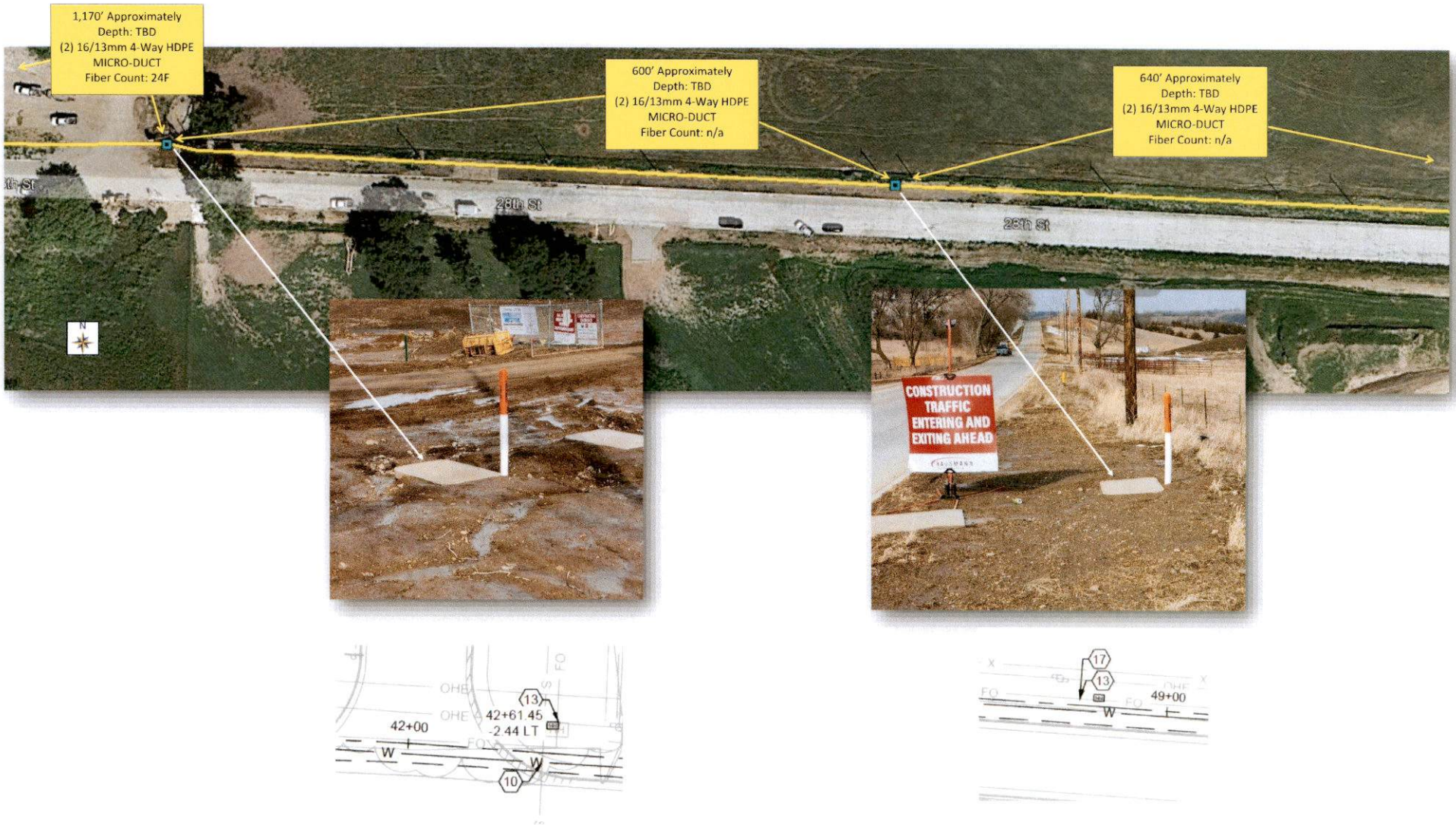
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