

**CONTROLLED ACCESS HIGHWAY
RIGHT-OF-WAY OCCUPANCY AGREEMENT**

between

CARRIER NAME

and the

WISCONSIN DEPARTMENT OF TRANSPORTATION



Date

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1. INTRODUCTION

This Agreement between **Formal Carrier Name** (Carrier) for itself and for its employees, agents, contractors, and the Wisconsin Department of Transportation (WisDOT), specifies the terms and conditions required by WisDOT to enable Carrier to construct, operate, and maintain fiber optic communication facilities longitudinally within WisDOT's Controlled access highway right-of-way in exchange for cash compensation, the rent-free use of communication facilities, or both. WisDOT's authority to enter into this Agreement includes sections 66.047, 84.01(30), 84.08, 85.15, 86.07(2)(a), 86.16, and 182.017, Wisconsin Statutes (2013-14).

2. UTILITY ACCOMMODATION POLICY

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

3. PRELIMINARY CORRIDOR SURVEYS

Carrier may perform preliminary corridor surveys to develop engineering plans, check for environmental conditions, perform soil borings, etc. If Carrier elects to perform a corridor survey, it shall submit for approval form DT1812, "Application/Permit to Work on Highway Right-of-Way" from WisDOT prior to doing any work.

4. RIGHT-OF-WAY USE

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

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

5. HIGHWAY LOCATIONS

This agreement is specific to **Describe Location of Carrier's Project**. A complete list of the specific sections along each highway is included as Attachment A.

6. OTHER UTILITIES

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

7. PERMITS

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

Carrier shall fill out and submit one original with an authorized signature plus seven copies of WisDOT's current permit form DT1553, "Application/Permit to Construct and Operate Utility Facilities on Highway Right-of-Way" (see Attachment B), for this installation along with detailed engineering plans depicting the proposed alignment locations. See [HMM 09-15-25](#) for more information. Upon receiving the application in the appropriate District office, WisDOT shall have 20 calendar days in which to approve or deny the permit. WisDOT reserves the right to suspend permits or withhold permit approvals for non-compliance violations as outlined in section 13B of this Agreement.

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

8. AGREEMENT/PERMIT TERM LENGTH

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

Each of the individual occupancy permits for the construction, operation, and maintenance of Carrier's communications facility shall become part of this Agreement upon issuance as Attachment A, and expire at the same time as this Agreement. Other permits issued to Carrier prior to actual construction (e.g., for preliminary corridor surveys) or for changes beyond routine maintenance after construction [see [HMM 09-15-15](#) (3.1)], shall be effective for the dates listed on each individual permit and shall not affect the terms of this Agreement. Once Carrier and WisDOT achieve a renewed Agreement, new permits may be issued or the existing permits extended for the subsequent term.

9. CONDITIONS OF ISSUING OCCUPANCY PERMITS

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

- 1) (**If applicable**) Carrier shall be allowed to place its fiber cables within **Number** conduits owned by **carrier** on the **Highway** in **Name** County. See Attachment C.

9. CONDITIONS OF ISSUING OCCUPANCY PERMITS (continued)

- 2) Carrier shall install no more than **Number** conduits longitudinally along the following highways:
- a) **Descriptive list**
- 3) **(If applicable)** Carrier shall joint construct with **Company, City name, carrier name** will be the lead carrier for the installation and shall place Carrier's **Number** conduits next to its own conduits, but Carrier shall be responsible for installing its own fiber. See Attachment C for the joint construction agreement between Carrier and **Other carrier name.**
- 4) Carrier shall pay WisDOT a \$_____ fee for the right to occupy **Number** miles of **Highway #(s)** right-of-way and **Number** bridges. The fee is comprised of the following:
- a) Item X – Place fiber within three conduits @ **\$Amount** /conduit **\$Amount**
b) Item X – **Number** miles @ **\$Amount** /mile **\$Amount**
c) etc.
- 5) The occupancy fee shall be paid within one week after WisDOT signs the Agreement. WisDOT may terminate this Agreement if Carrier fails to pay the fee within 20 calendar days of the date WisDOT signs this Agreement. Any payment that is made more than 20 calendar days past the due date shall also include a late fee of 3 percent per month. With any successor Agreement, the fee shall be determined by using WisDOT's current fee schedule, if such a schedule is developed and used for all longitudinal installations of this type, or negotiated prior to the completion of this Agreement and any successor Agreement.
- 6) **If barter arrangement, describe terms of the deal...**
- 7) Carrier shall be billed for future maintenance or improvement costs incurred by WisDOT due to the bridge attachments including, but not limited to, bridge inspections, washing, painting, and redecking.
- 8) Carrier shall be allowed random ingress/egress from the interstate shoulder to facilitate the loading/unloading of equipment and materials. This special shoulder access requires the presence of a law enforcement officer and squad car since a traffic lane or shoulder closure is also required for work zone safety. See section 16C for details.
- In all counties except Milwaukee, WisDOT, Division of State Patrol (DSP), shall provide the law enforcement presence where the controlled-access highway (CAH) vehicle count is 50,000 AADT (Annual Average Daily Traffic) or more. In Milwaukee County, the Sheriff's Department shall provide the presence. In counties where the CAH vehicle count is 50,000 ADT or less, DSP or another law enforcement agency may be used. Carrier shall pay all costs associated with law enforcement presence, which includes labor, fringe benefits, meals, and squad car use. The estimated cost for DSP services during the initial conduit/fiber installation is **\$Amount** (see Attachment D). Carrier shall enter into a separate contract with the Milwaukee County Sheriff's Department for shoulder access operations in that county and other law enforcement agencies if the need arises.
- 9) Carrier shall pay all costs incurred by WisDOT in providing qualified construction inspectors who will solely represent WisDOT's interests. These inspectors shall include staff from WisDOT and consulting engineering firms. The estimated cost for these services during the initial conduit/fiber installation is **\$Amount** and is detailed in Attachment E.
- 10) Carrier shall make an initial deposit of **\$Amount** to cover the costs associated with items 9-10/12 within one week after the date that WisDOT signs the Agreement. Within 60 days after the completion of the project, Carrier shall receive the difference between its deposit and the actual costs if they are lower than **\$Amount**, or be sent a final bill (payable within 30 days upon receipt) for the outstanding balance over **\$Amount**. Carrier shall receive a monthly report as to the amount of the expenses billed.

9. CONDITIONS OF ISSUING OCCUPANCY PERMITS (continued)

- 11) Carrier shall not be billed for WisDOT's administrative costs for pre-construction corridor surveys, reviewing permit/application forms, random field inspections by staff, meetings, Agreement development, environmental review, legal services, addressing non-compliance issues, and administrative duties such as phone calls, right-of-way plat retrieval, copying, etc. Carrier shall be billed for each full day (8 hours or more) that a WisDOT staff person performs construction inspection on Carrier's project.
- 12) WisDOT defines carrier's installation as a transmission line. Therefore, no service connections shall be allowed to individual property owners adjacent to the corridor without prior authorization from WisDOT. Subject to WisDOT permit approval, Carrier shall have the right to exit and enter the right-of-way to make connections to its fiber optic cables for the purposes of extending its existing line or building or connecting to another transmission line.
- 13) Carrier shall obtain new permit approvals from WisDOT, and other applicable governmental agencies and highway authorities, for the future installation of additional fiber to its existing conduits. If construction inspection or a law enforcement presence is required by WisDOT as part of the new fiber installation, Carrier shall be required to pay for those costs in a similar manner as the initial conduit/fiber installation.
- 14) **Other items can be added as necessary to document the Agreement...**

10. OWNERSHIP

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

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

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

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

11. FACILITY RELOCATION

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

12. FUTURE ACCOMMODATIONS

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

13. TERMINATION

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

13. TERMINATION (continued)

A. By WisDOT for Convenience

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

B. By WisDOT for Non-Compliance

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

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

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

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

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

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

13. TERMINATION (continued)

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

C. By Carrier for Commercial Reasons

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

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

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

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

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

14. EMERGENCIES

Carrier may respond to any emergency related to its facility without first obtaining a permit from WisDOT so long it follows *UAP* guidelines while handling the emergency. If necessary, Carrier shall submit a permit application after the emergency to document any changes to its facility. Carrier shall pay all costs associated with any fire calls for emergency responses to its facilities. WisDOT shall bill Carrier for the amount billed to WisDOT by a town, village, or city fire department under sections 60.557(2), 61.65(8), and 62.13(8) Wisconsin Statutes (2013-14), respectively.

15. ENVIRONMENTAL COMPLIANCE

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

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

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

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

[HMM 09-15-50](#) shall be used if Carrier discovers any environmental conditions on WisDOT right-of-way – either before, during, or after installation of its facilities. Carrier shall not be responsible for the assessment, mitigation or remediation of preexisting right-of-way conditions unless its operation causes the material to be disturbed and Carrier fails to follow the guidelines in HMM 09-15-50. When right-of-way remediation must be undertaken because of contamination from Carrier-generated materials not preexisting on the right-of-way, Carrier shall initiate, finance, and carry out a WisDOT approved remediation plan.

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

16. INSTALLATION REQUIREMENTS

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

16. INSTALLATION REQUIREMENTS (continued)

A. Contact List/Scheduling

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

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

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

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

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

B. Right-Of-Way Access

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

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

C. Traffic Control

All work zone traffic control shall be in accordance with the [Wisconsin Manual on Uniform Traffic Control Devices](#). Additional guidance is available from WisDOT through a booklet entitled, [Work Zone Safety, Guidelines for Construction, Maintenance, and Utility Operations](#) or from [HMM 09-15-60](#). For freeway/expressway operations that continuously remain more than 35 feet from the edge of the closest traffic lane, work zone signing is not required. For operations that remain entirely beyond the delineator posts, a shoulder closure is not needed.

16. INSTALLATION REQUIREMENTS (continued)

C. Traffic Control (continued)

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

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

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

- 1) **Prior to** loading and unloading equipment or materials, proper traffic control shall be set up to close the right lane (if required) or the shoulder, and a law enforcement officer and squad car in place.
- 2) Carrier shall move its vehicles, equipment, and materials onto the shoulder **after** authorization from the officer present at the scene.
- 3) The lane closure shall be taken down (if utilized), and proper traffic control reestablished for a shoulder closure once the unloading has finished, and if the vehicles or equipment need to remain parked on the shoulder to facilitate Carrier's operation.
- 4) Lane closures shall not take place during weekday peak hours from 6-9 AM and 3-6 PM or during holiday work restriction times (see section 16D) unless specifically authorized by law enforcement and the district utility permit coordinator or other appropriate highway district representative.
- 5) Lane closures may occur between 6 PM and 6 AM upon authorization from the appropriate law enforcement agency or WisDOT.

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

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

Shoulder closures are not needed when:

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

16. INSTALLATION REQUIREMENTS (continued)

D. Hours of Operation/Holiday Work Restrictions

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

- 1) **Spring Break Weekends**
From 12 Noon on Friday, March/April __, until 6AM on Monday, March/April __.
From 12 Noon on Friday, March/April __, until 6AM on Tuesday, April __.
- 2) **Memorial Day Weekend**
From 12 Noon on Friday, May __, until 6 AM on Tuesday, May or June __.
- 3) **July 4th Weekend**
From 12 Noon of Friday, July __, until 6 AM on _____, July __.
- 4) **Labor Day Weekend**
From 12 Noon on Friday, Sept __, until 6 AM on Tuesday, Sept __.
- 5) **Opening of Deer Hunting Season**
From 12 Noon on Friday, Nov __, until 7:30 AM on Monday, Nov __.
- 6) **Thanksgiving Weekend**
From 12 Noon on Wednesday, Nov __, until 7:30 AM on Monday, Nov __.
- 7) **Christmas Weekend**
From 12 Noon on Friday, Dec __, until 7:30 AM on Tuesday, December __.

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

E. Pre-Construction Meetings

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

F. WisDOT Inspections

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

G. Diggers Hotline

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

16. INSTALLATION REQUIREMENTS (continued)

H. Bridge Attachments

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

Carrier shall be allowed to hang **describe bridge attachment in detail**. The hanger assembly designs shall first be approved by WisDOT and shall be included as part of the bridge occupancy permit documentation. The designs shall also include mechanisms that will allow the hanger assemblies and ducts to expand and contract in a similar manner as the bridge. Carrier shall provide WisDOT with the total dead load of the hanger assemblies, ducts, and fiber cables. The duct assemblies shall not be fitted through either abutment.

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

I. Horizontal Location Within Corridor

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

J. Vertical Location Within Corridor

Carrier shall bury all fiber optic cables that are placed in WisDOT's right-of-way. In addition to compliance with [HMM 09-15-25 \(2.2\)](#), all cables shall be placed at a depth of 30 inches or more with a plastic "warning" tape placed approximately one foot above the cables to prevent accidental cutting. Carrier may install its cable by means of plowing or directional boring. At specific locations as directed by WisDOT (e.g. under culverts, crossroads, trees, etc.), Carrier shall directional bore.

K. Work Area Protection During Non-Work Times

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

L. Erosion Control

In accordance with [HMM 09-15-55](#), Carrier shall submit a formal erosion control plan since its operation will most likely have open excavations and disturbed soil from equipment tracks for more than a 24-hour period. See Attachment F. Carrier shall take all steps necessary to prevent soil from getting into nearby waterways and shall protect excavated areas with the proper erosion control devices to contain the soil directly at the location. All necessary erosion control devices shall be in place prior to starting any construction.

16. INSTALLATION REQUIREMENTS (continued)

M. Right-Of-Way Restoration

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

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

N. Working Around Trees & Tree/Vegetation Removal

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

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

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

16. INSTALLATION REQUIREMENTS (continued)

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

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

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

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

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

O. Above-Ground Facility Marking

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

17. TAXES AND LIENS

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

Carrier shall keep the right-of-way free from any liens arising from work performed, materials furnished or obligations incurred by Carrier. Carrier shall not permit the filing of a lien against any part of the right-of-way. Upon completion of any construction, copies of the signed lien waivers, if any, shall be supplied to WisDOT.

18. HOLD HARMLESS

WisDOT's standard indemnification clause is part of this Agreement and incorporated herein by reference and shall be applicable to and included on all permits. A copy of the language is on the back of the DT1553 permit application. See Attachment B.

19. INSURANCE AND SUBROGATION

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

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

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

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

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

20. CHOICE OF LAW

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

21. SEVERABILITY

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

22. NO PARTNERSHIP CREATED

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

23. APPROPRIATIONS

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

24. SUBSEQUENT LEGISLATION, REGULATION, AND PROCEDURES

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

25. NOTICES

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

26. WORKING RELATIONSHIP

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

27. ASSIGNMENT

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

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

28. ENTIRE AGREEMENT

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

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

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

29. WARRANTY OF AUTHORITY

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

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

WISCONSIN DEPARTMENT OF TRANSPORTATION

FORMAL CARRIER NAME

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

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

County / MP	Hwy	Dir	Termini	Mileage	Permit # / Date	Comments
St. Croix 0	94	WB	B-55-61 over the St. Croix River	0		Joint construction w/ carrier name
St. Croix 0 - 31.4	94	EB	Minnesota/Wisconsin state line to St. Croix/Dunn County line	31.4	000731 6/20/00	Joint construction w/ carrier name
Dunn 31.4 - 55.9	94	EB	St. Croix/Dunn County line to approximately 3.7 miles east of USH 12 near Elk Mound	24.5		Joint construction w/ carrier name
Dunn 43.7	94	EB	B-17-32 over the Red Cedar River	0		Joint construction w/ carrier name
Milwaukee 311.6 - 316.6	43/94	EB	STH 38 (6 th Street) to I-43/94/894 (Mitchell) Interchange	5.0		
Milwaukee 311.6 - 313.4	43/94	WB	STH 38 (6 th Street) to Canadian Pacific RR	1.8		
Milwaukee 313.4	43/94	EB/WB	B-40-181 over the Kinnickinnic River – EB B-40-182 over the Kinnickinnic River – WB	0		
Milwaukee 316.6 - 325.0	94	EB	I-43/894 (Mitchell interchange) to Milwaukee/Racine Co line	8.4	000732 6/27/00	Joint construction w/ carrier name
Racine 325.0 - 331.1	94 - W Front Rd	EB	Milwaukee/Racine Co line to 2-Mile Road	6.1	000729 5/10/00	Joint construction w/ carrier name
Racine 332.7 - 333.5	94 - W Front Rd	EB	CTH C (Spring St.) to approximately 0.3 mile south of STH 20 (Washington Ave.)	0.8	000729 5/10/00	Joint construction w/ carrier name
Racine 335.1 - 335.7	94 - W Front Rd	EB	58 th Road (Old STH 11) to approximately 0.3 mile south of STH 11 (Durand Ave.)	0.6	000729 5/10/00	Joint construction w/ carrier name
Racine 336.8 - 337.1	94 - W Front Rd	EB	Approximately 0.3 mile north of CTH KR (First St) to Racine/Kenosha County line	0.3	000729 5/10/00	Joint construction w/ carrier name
Kenosha 337.1 - 349.2	94 - W Front Rd	EB	Racine/Kenosha County line to Wisconsin/Illinois state line	12.1	000726 4/20/00	Joint construction w/ carrier name
			TOTAL MILES	91.0		

APPLICATION / PERMIT

TO CONSTRUCT, OPERATE and MAINTAIN UTILITY FACILITIES ON HIGHWAY RIGHT-OF-WAY

s.66.0831, 84.08, 85.15, 86.07(2)(a), 86.16, 182.017 and such other applicable Wis. Stats.

Form with 18 numbered sections for applicant information, work details, and location. Includes checkboxes for facility types, work methods, and location descriptions.

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

Form sections 18-22 covering utility person details, emergency contact, and project details. Includes a signature line for the authorized representative.



This permit does not transfer any land; nor give, grant or convey any land right, right in land, nor easement in WisDOT right-of-way. It is not assignable or transferrable. If ownership in a utility facility changes, WisDOT may void and supersede a permit and reissue it to the new owner upon request and with sufficient proof of ownership.

For Wisconsin DOT Use Only

Summary table for DOT use only, containing checkboxes for notification requirements and a tracking table for application dates and permit numbers.

WisDOT Improvement Project ID Numbers (if applicable)

(WisDOT Authorized Representative Signature – If filled via computer, Brush Script font)

Use this section to provide information that does not fit on front page

INDEMNIFICATION

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

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

Notwithstanding the foregoing, a private contractor or subcontractor with the State under Chapter 84 Wisconsin Statutes, that fails to comply with sections 66.0831 and 182.0175 Wisconsin Statutes (2007-2008), remains subject to the payment to the Applicant of the actual cost of repair of intentional or negligent damage by the contractor or subcontractor to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, and remains subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the contractor or subcontractor.

Notwithstanding the foregoing, if the State, or its officers, employees and agents, fail to comply with sections 66.0831 and 182.0175 Wisconsin Statutes (2007-2008), the State or its officers, employees and agents, remain subject to the payment to the Applicant of the actual cost of repair of willful and intentional damage by the State, or its officers, employees and agents, to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the State for location of property, lines or facilities on highway right-of-way, and remain subject to payment to the Applicant for losses due to personal injury or death resulting from negligence by the State, its officers, employees and agents.

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

ATTACHMENT C
(if applicable)

Joint IRU Agreement Between Carriers for Use of Conduit

and/or

**Joint Construction Agreement Between Carrier
and Other Carrier**

ATTACHMENT D

Division of State Patrol Services & Estimated Costs

Page 1 of ?

INTERSTATE HIGHWAY CONSTRUCTION PROJECTS Year

WISCONSIN STATE PATROL

and

CARRIER NAME.

ATTACHMENT E Construction Inspection Cost Estimate

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

- **CONSULTANT NAME, CITY**
\$Amount

The breakdown of the estimate is as follows:

TASK	ACTIVITY CODE	Direct Labor Costs	Overhead costs	Direct Expenses	Fixed Fee / Profit	TOTAL
General Supervision	60	\$ 1,560.00	\$ 2,375.72	\$ 252.20	\$ 354.22	\$ 4,542.14
Inspection - General Field	250	\$ 4,832.50	\$ 7,359.41	\$ 1,047.60	\$ 1,097.27	\$ 14,336.79
Traffic Control - Const. Staging	150	\$ 2,812.50	\$ 4,283.16	\$ 640.20	\$ 638.61	\$ 8,374.47
TOTALS	460	\$ 9,205.00	\$ 14,018.29	\$ 1,940.00	\$ 2,090.10	\$ 27,253.39
Assumes Overhead Rate	1.522900					
Assumes Profit	9.00%					

Upon request, a copy of the contract between WisDOT and CONSULTANT NAME shall be sent to Carrier.

ATTACHMENT F
PROGRAMMATIC ENVIRONMENTAL CRITERIA CHECK LIST

List District(s) or Counties Applicable _____

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

There are no adverse effects to a significant cultural resource?

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

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

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

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

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

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

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

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

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

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

ATTACHMENT F
PROGRAMMATIC ENVIRONMENTAL CRITERIA CHECK LIST

List District(s) or Counties Applicable _____

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

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

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

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

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

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

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

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

Project Meets Criteria Yes No Criteria Does Not Apply

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

Comments: _____

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

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

Project Meets Criteria Yes No Criteria Does Not Apply

Comments: _____

ATTACHMENT F **Environmental Permit Approvals**

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

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

ATTACHMENT F **Formal Erosion Control Plan**

Carrier has submitted a comprehensive erosion control plan through its consultant, **Consultant name, City, State**, which was approved by WisDOT on **Date**. This plan is hereby incorporated into the Agreement. For brevity, this plan is not attached but shall be on file with both WisDOT and Carrier.

ATTACHMENT G

Sample Weekly Schedule of Carrier's Field Operations

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

CARRIER NAME – SCHEDULE OF FIELD OPERATIONS				WEEK OF <u>April 24 - 28</u>	
CONTRACTOR NAME & FIELD CONTACT	COUNTY	HIGHWAY	TERMINI [List mileposts, road crossing, or other identifying feature]	OPERATION [Fully describe all planned work activities]	COMMENTS
Michels John Smith 800/555-1212	Racine	I-94, West Frontage Rd	MP 325 - 340	Cat plow and tree removal	
Michels Tom Franks 608/516-8895	Dane	I-94	MP 241 - 252	Cat plow and tree removal	Will load/unload from shoulder on Mon and Fri.
XYZ Excavating Zeke Clinton 888/555-2233	Dane	I-94	Sprecher Rd M-Tu CTH N W-Th Koshkonong Cr F-Sa	Directional boring	
1234 Telecom Monica Dumbrowski 262/555-1234	Kenosha	I-94, West Frontage Rd	MP 340 - 348	Fiber pulling and splicing	2 crews
A & B Boring Phil McFarren 262/555-1212	Milw	I-94	Racine/Milw Co Line to Mitchell Interchange	Directional boring	
<h1 style="font-size: 4em; opacity: 0.5;">SAMPLE</h1>					

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

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

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

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

ATTACHMENT H

Working Around Trees & Tree/Vegetation Removal

(Graphic Depiction of Section 16N)

DBH = Tree diameter measured at breast height

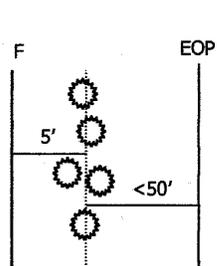


Figure 1. Bore under isolated trees or living snow fence planted by WisDOT, or volunteer trees >8-10" DBH.

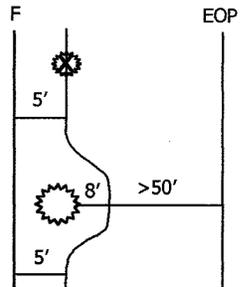


Figure 2. Remove volunteer or scrub trees <8-10" DBH. Move inside trees >8-10" DBH when sufficient clearances are available.

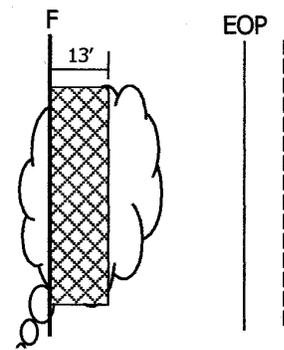
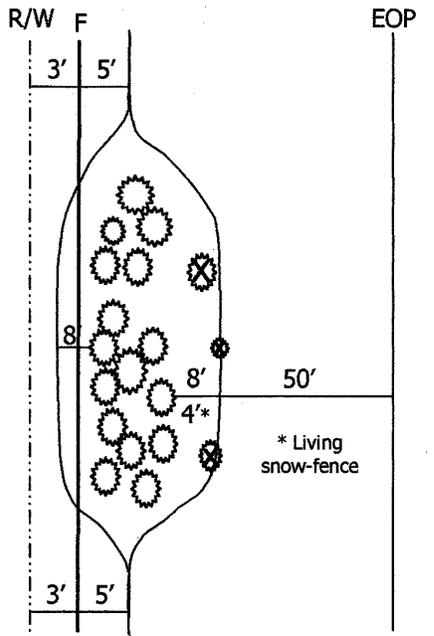
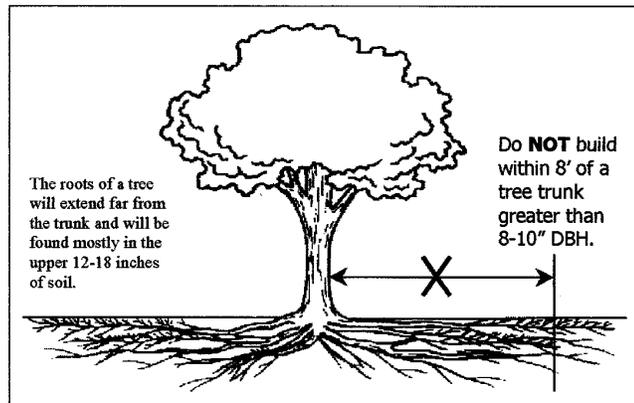


Figure 5. Clear up to a 13' swath of volunteer or scrub trees & brush.



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



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

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

ATTACHMENT I
Important Addresses

Questions regarding this Agreement or the [Utility Accommodation Policy](#)

Where to send NOTICES*

Where to send Carrier’s Evidence of Insurance

[Robert C. Fasick](#)
Wisconsin DOT
Bureau of Hwy Maintenance – Room 501
PO Box 7986
Madison, WI 53707-7986

* cc: Region Utility Permit Coordinators
See list [HMM 09-15-70](#)

Office: 608/266-3438 Fax: 608/267-7856

Questions regarding Wisconsin Laws and Administrative Rules

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

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

Questions regarding specific permits

Each highway region office will review permit applications within their boundaries.
See [HMM 09-15-70](#) for a map of region offices.

Carrier’s contact for notices

Name: _____

Office: _____

Title: _____

Fax: _____

Company: _____

Address: _____

Emergency: _____

CC: _____