

When recorded return to:

Clerk of the Board
PO Box 827
Florence, AZ 85132

ZIPLINK SYSTEMS, LLC. RIGHT OF WAY LICENSE AGREEMENT

DO NOT DISCARD THIS PAGE. THIS COVER PAGE IS RECORDED AS PART OF YOUR DOCUMENT.
THE CERTIFICATE OF RECORDATION WITH THE FEE NUMBER IN THE UPPER RIGHT CORNER OF
THIS DOCUMENT IN THE PINAL COUNTY RECORDER'S OFFICE.

**Right of Way License Agreement for the Installation of Internet Service for ZipLink
Systems, LLC**

WHEREAS, this License Agreement is entered into between Pinal County, a body politic and corporate and a political subdivision of the State of Arizona (hereinafter "County"), and ZipLink Systems (hereinafter "Licensee"); and

WHEREAS, County is authorized by A.R.S. section 11-251 to regulate and manage the public rights of way within its jurisdiction; and

WHEREAS, Licensee, a limited liability company, wishes to own, operate, and maintain private utility facilities under, over and through certain rights of way within Pinal County to benefit the public health, safety, and welfare of the residents of Pinal County; and

WHEREAS, Licensee desires continued access to certain rights of way within Pinal County to provide internet service to certain areas within Pinal County, as described in Exhibit A to this license; and

WHEREAS, it being determined by the Board of Supervisors that the granting of this License is authorized by law and in the best interests of Pinal County and the inhabitants thereof;

NOW, THEREFORE, Pinal County and Licensee agree as follows:

Section 1: GRANT OF PERMISSION

Licensee is hereby authorized and empowered, on a non-exclusive basis, to use the public Pinal County rights of way now existing or hereafter established and lying within the boundaries of Pinal County, under the terms and conditions set forth herein, and as identified in Exhibit A which is attached to this agreement and incorporated herein by this reference, for the purpose of installing, repairing, replacing, and maintaining its underground and aerial internet facilities.

Section 2: TERM

This agreement shall be effective for a term of five years from the Effective Date as defined below in this agreement, and extinguishes, supersedes, and replaces all previous or existing right of way agreements for internet services granted to Licensee by Pinal County.

Section 3: REGULATION OF PINAL COUNTY RIGHTS OF WAY

All rights hereunder are granted under the express condition that Pinal County shall have the power at any time to impose such restrictions and limitations upon, and to make such regulations as to, Licensee's use of Pinal County's rights of way as Pinal County may be authorized by law to

impose, including but not limited to the power to impose such restrictions, limitations, and regulations as Pinal County is authorized to impose upon licenses or franchises to state law.

Section 4: SUPERIOR RIGHTS

The rights of Pinal County in and to the use of all public rights of way located within the boundaries of Pinal County are and forever shall be paramount and superior to the rights of Licensee, subject only to this agreement.

Section 5: ALTERATION OF PUBLIC RIGHTS OF WAY

Nothing in this agreement shall be construed so as to prevent Pinal County from altering, improving, adjusting, repairing, or maintaining its facilities and public rights of way, and for that purpose to require Licensee to adjust, remove, replace, or relocate Licensee's facilities. Pinal County facilities shall mean any physical object or improvement owned, possessed, made, installed, maintained, or constructed by Pinal County or others at the request of Pinal County, including all paving, highway, transportation, flood control, or other Pinal County-owned structures located within Pinal County rights of way.

Section 6: NONEXCLUSIVE USE

Nothing in this agreement shall be construed to grant Licensee an exclusive right to use the public rights of way. Licensee's facilities shall be erected, adjusted, installed, replaced, removed, relocated, and maintained in a manner that will not interfere with the reasonable use of the public rights of way by the public, Pinal County, or any other franchisee or licensee. The location of Licensee's facilities in the public rights of way shall not create or establish a vested interest in the rights of way, and its facilities shall be removed or relocated by Licensee whenever Pinal County determines that Licensee's facilities impact, restrict, obstruct, or hinder Pinal County or the public's existing or future use of the rights of way or Pinal County's operation or location of Pinal County's facilities.

Section 7: RELOCATION

Licensee shall be solely responsible for the design, adjustment, removal, or relocation, temporarily or permanently, of all Licensee's facilities that impact, conflict with, or interfere with Pinal County's use of its rights of way or Pinal County's improvement, relocation, or adjustment of any facilities located in Pinal County's rights of way. The cost of designing, adjusting, removing, relocating, or replacing Licensee's facilities shall be Licensee's sole responsibility. Prior to beginning any activity in a Pinal County right of way, Licensee shall obtain all required permits from Pinal County and any other applicable jurisdiction for the activity. Licensee's facilities shall be adjusted, removed, replaced, or relocated by Licensee in accordance with an activity schedule determined by Pinal County and provided to Licensee within a reasonable period of time prior to the scheduled activity start date. If the schedule is unacceptable to Licensee or if Licensee finds it necessary to plead financial hardship regarding the cost of relocating its facilities, Licensee may

appeal to the Pinal County Board of Supervisors. If Licensee's facilities are not adjusted, removed, replaced, or relocated within the time period allotted by Pinal County's activity schedule, Pinal County may, at its discretion, adjust or relocate Licensee's facilities. Licensee hereby agrees to be liable for all costs incurred by Pinal County for the adjustment or relocation of Licensee's facilities necessitated by Pinal County's activities, including overhead and maintenance costs and an administrative surcharge in the amount of fifteen percent of the total cost attributed to the adjustment or relocation of Licensee's facilities. In the event that Pinal County incurs such costs, Pinal County shall submit a bill to Licensee for the incurred costs, and Licensee shall pay Pinal County the invoiced amount within ninety (90) calendar days of receipt of the invoice. If the invoice is not paid by Licensee in a timely manner, all rights granted to Licensee under this agreement shall be suspended and no permits will be issued to Licensee for any work with Pinal County rights of way until the invoiced costs are paid in full to Pinal County. Licensee may contest the propriety of such invoices by filing a written appeal with the Pinal County Board of Supervisors, whose decision with respect thereto shall be final.

Section 8: UNDERGROUNDING

The parties acknowledge that Pinal County has the authority to require Licensee to underground its above-ground facilities in Pinal County rights of way when Pinal County determines that such undergrounding is necessary to conform to existing Pinal County ordinances or is in the public interest. Pinal County may require Licensee to conduct a study of the cost of the undergrounding any portion or segment of Licensee's facilities located in Pinal County's rights of way. Any such study shall set forth an estimate of the costs of undergrounding Licensee's facilities, including a breakdown of the cost allocated to labor, materials, design, and construction for converting above-ground facilities to underground facilities. Licensee shall submit a cost study of any specified segment of Licensee's facilities within ninety (90) calendar days after receiving written notice from Pinal County requesting the cost study. The cost of preparing and providing any cost study requested by Pinal County shall be borne by Licensee.

Section 9: PERFORMANCE OF WORK

The work required by Licensee to design, construct, reconstruct, pothole for, design, adjust, relocate, replace, or repair Licensee's facilities shall be Licensee's sole responsibility. The cost of any delay to Pinal County's projects caused by Licensee's failure to complete its work in accordance with Pinal County's activity schedule shall be Licensee's sole responsibility provided that Pinal County shall have provided Licensee with reasonable advance notice of the need to take such action and a reasonable amount of time allowed to perform the necessary activities. In the event Pinal County incurs such costs, Pinal County shall submit a bill to Licensee for the incurred costs, and Licensee shall pay Pinal County the invoiced amount within ninety (90) calendar days of receipt of the invoice. If the invoice is not paid by Licensee in a timely manner, all rights granted to Licensee under this agreement shall be suspended, and no permits will be issued to Licensee for any work within Pinal County rights of way until the invoiced costs are paid in full to Pinal County.

Licensee may contest the propriety of such costs by filing a written appeal with the Pinal County Board of Supervisors, whose decision with respect thereto shall be final.

Section 10: LOCATION OF FACILITIES

As a condition of this agreement, Licensee hereby agrees to have and maintain precise, up-to-date maps of Licensee's facilities located in Pinal County rights of way, and to make this information available to Pinal County within fifteen calendar days of receiving a written request from Pinal County. Beginning on the effective date of this agreement, Licensee shall maintain precise and verifiable horizontal and vertical location information tied to an accepted Pinal County datum and provide such information to Pinal County within fifteen (15) calendar days of receiving written notice from Pinal County. As a condition of the issuance of this agreement, Licensee agrees to provide surface location marking of Licensee's undergrounded facilities located within the public rights of way within two (2) working days of a request from Pinal County. In the event Licensee is unable to provide the location information to Pinal County within the allotted time frame, Pinal County may, at its discretion, locate Licensee's facilities and Licensee shall be liable for Pinal County's costs incurred in locating Licensee's facilities.

Section 11: WORK IN THE RIGHTS-OF-WAY

11.1 *Permits required.* Prior to performing any work within the right-of-way, Licensee shall obtain a permit from Pinal County in accordance with Title 7 of the Pinal County Development Services Code.

11.2 *Damage to other facilities.* In the construction, adjustment, removal, relocation, repair, operation, and maintenance of its facilities, Licensee shall avoid causing or permitting any damage, disturbance, or unnecessary modification or alteration to Pinal County facilities including pavement, or to the facilities of others located in Pinal County rights of way. If Licensee causes or permits any such damage, disturbance, or unnecessary alteration or modification, Licensee, at its sole expense and in a manner approved by the Pinal County Engineer, shall restore the damaged, disturbed, altered, or modified facilities to the condition in which they existed before being damaged, disturbed, modified or altered. Licensee also shall be liable to owners of said facilities for any other losses or expenses that may accrue because of said damage, disturbance, modification, or alteration. The restoration of facilities shall be initiated promptly and completed expeditiously by Licensee, who shall give priority to the restoration, repair, or replacement of such facilities over all non-emergency activities of Licensee.

11.3 *Damage to vegetation.* In the construction, adjustment, removal, relocation, repair, operation, and maintenance of its facilities, Licensee shall use all necessary care to avoid any damage to or disturbance of existing vegetation in the public rights of way. If Licensee

causes or permits any such damage or disturbance, Licensee shall re-vegetate the rights of way at its sole expense and in accordance with all Pinal County regulations then in effect.

11.4 *Adjacent properties.* Licensee shall provide prior written notice to the owners or residents of adjoining properties of any activity of Licensee which may temporarily interfere with access to or use of said adjoining property. Licensee shall maintain access to adjoining properties during all construction activities or other operations, unless the requirement of access is waived in writing by the owners and residents of the affected properties. If an emergency requires activity without written notice, Licensee shall use its best efforts to provide timely actual notice to the owners and residents of adjoining properties.

Section 12: DESIGN AND LOCATION OF FACILITIES

12.1 *Injury to persons and property.* Licensee shall use reasonable care at all times to avoid damage or injury to persons and property during the construction, adjustment, removal, relocation, repair, operation, and maintenance of Licensee's facilities.

12.2 *Location and construction of facilities.* The location and construction of Licensee's facilities in public rights of way shall conform to Pinal County standards and guidelines then in effect and as may be directed by Pinal County, in order not to interfere with a planned future use of the public rights of way by Pinal County.

12.3 *Interference with other uses.* Licensee's facilities shall be located in a manner designed to cause the least amount of interference with the public's existing or future use of roads, streets, alleys, and other public rights of way, and in such a way as will minimize interference with the rights and convenience of adjacent property owners.

12.4 *Relocation of facilities.* Pinal County may require Licensee, at Licensee's sole expense, to remove, relocate, mitigate, or underground any of Licensee's facilities that present a potential hazard to the public, that interfere, with the public's use of the public rights of way, or that are determined by Pinal County to be aesthetically undesirable.

12.5 *Neighboring property owners.* Licensee shall be responsible for notifying owners or residents of adjoining properties in writing about permanent or temporary above- or below-ground facilities to be constructed in Pinal County rights of way. Licensee shall make every reasonable effort to resolve the concerns of property owners and residents regarding the construction of Licensee's facilities. Should Pinal County determine that Licensee failed

reasonably to evaluate all options available to alleviate residents' concerns, Pinal County may require Licensee to relocate its facilities at Licensee's sole expense.

12.6 *Excavation costs.* Licensee shall be responsible for any costs that Pinal County incurs in locating, excavating, or exposing any underground Licensee facilities on Pinal County construction projects with Pinal County rights of way.

Section 13: CONSTRUCTION SAFETY

Any opening or obstruction in the public rights of way caused by Licensee during the course of Licensee's activities in the rights of way shall be guarded and protected at all times by safety barriers erected by Licensee, which safety barriers shall be designated clearly by warning lights during periods of dusk and darkness. Any work performed by Licensee in or adjacent to a public roadway open for travel shall be signed and marked properly by Licensee with warning and directional devices in accordance with all applicable state and local traffic regulations, and in accordance with the Arizona Department of Transportation's Traffic Control Manual for Highway Construction and Maintenance and the Manual on Uniform Traffic Control Devices for Streets and Highways.

Section 14: DRAINAGE

During construction or excavation in the public rights of way, Licensee shall provide proper drainage so that the public rights of way will be free from standing surface water and adequately drained so as not to cause flood or erosion damage to the facilities of Licensee or surrounding property. For projects with a material impact upon local drainage patterns, Licensee may be required by Pinal County to submit drainage engineering data and design plans to Pinal County for review and approval prior to the issuance of any Right-of-Way Use Permit by Pinal County.

Section 15: ISSUANCE OF PERMIT NOT APPROVAL OF VIOLATION

Pinal County's review, approval, or acceptance of plans or specifications or issuance of a permit for the installation, construction, or location of a facility by Licensee shall not be construed to be an authorization for or approval of a violation of any federal, state, or local law or regulation, or of any industry standard, pertaining to the location or construction of a utility facility in public rights of way.

Section 16: COUNTY INSPECTION

Pinal County, if it deems necessary, has the right to inspect any work by Licensee in the public rights of way to ensure proper performance of the terms of this agreement and conformance with any applicable federal, state, or local laws, ordinances, and regulations. Pinal County may require Licensee to pay a reasonable and uniform fee to cover the actual costs of inspections performed by Pinal County or its contractor under this provision. Pinal County may, at its discretion, pothole Licensee's facilities to verify conformance with Section 10, above. Licensee shall be liable for the

cost of potholing, and for an administrative surcharge in the amount of fifteen (15) percent of the total cost of potholing, should Licensee's facilities be found to be out of conformance. Licensee shall be responsible for taking corrective action to bring as-builts into conformance with verified facilities.

Section 17: ABANDONMENT OF FACILITIES

Abandonment in place of any of Licensee's facilities located within Pinal County rights of way may occur only upon written approval from Pinal County.

Section 18: LIABILITY AND INDEMNITY

Licensee acknowledges its sole responsibility for any of its facilities and/or equipment installed in the public rights of way, and for any liability arising from any activities Licensee performs within the public rights of way. Licensee agrees to indemnify, hold harmless, and defend Pinal County and its officials, agents, servants, and employees against any and all claims for injuries to persons or damage to property, whether intentional, negligent, or otherwise, arising out of Licensee's work in the public rights of way, or due to the existence of Licensee's facilities and/or equipment in the public rights of way, or in any way related to Licensee's exercise of its rights under this agreement. Neither the issuance of a Pinal County permit for installation or location of a facility or equipment, nor Pinal County approval of such installation or location, nor the failure of Pinal County to direct Licensee to take any precautions, to make any changes, or to refrain from doing anything shall excuse Licensee of its responsibilities hereunder to Pinal County or others in the case of any injury to persons or damage to property.

If Pinal County is sued in any court by any person, firm, association, or corporation to recover damages for injuries to person or property on account of the installation, repair, operation, and/or maintenance of Licensee's facilities or equipment, Licensee shall defend such suits and pay any resulting judgments, and shall, at the option of Pinal County be made a party to any such court proceeding.

Section 19: PINAL COUNTY PARTICIPATION IN LEGAL ACTIONS

Pinal County shall have the rights at all times to take part in any suit or action instituted by or against Pinal County in which any judgment or decree can be rendered, which might result in the foreclosure of any lien on any Licensee property situated within public rights of way, or which could affect the rights, powers, or duties of Licensee to do or not do anything that this agreement might require Licensee to do or not to do, and also to take such steps as Pinal County may deem appropriate to protect the interests of Pinal County or the public. Pinal County shall have the right to intervene in any suit, action, or proceeding by any person or persons, firm, or corporation seeking to enjoin, restrain, or in any manner interfere with Licensee in the performance or observance by it of any of the terms or conditions of this agreement, or of any regulation, notice, or direction of Pinal County in such connection, or which involves or might involve the constitutionality, validity, or enforcement of this agreement. Pinal County also may move for

dissolution of any such injunction or restraining order or take any other appropriate step, in any such suit, action or proceeding that it may deem necessary or advisable in order to protect its interests.

Section 20: COMPLIANCE WITH AGREEMENT CONDITIONS AND ORDINANCES

Licensee agrees to conform to, abide by, and perform all the conditions, provisions, requirements, and limitations in this agreement. Licensee shall be subject to all Pinal County ordinances now in force or hereafter lawfully adopted, including all ordinances relating to the use of public rights of way by utilities. Licensee agrees that it will not assert any claim against Pinal County that the provisions of this agreement or any applicable Pinal County ordinance or regulation in force at the time of execution of this agreement are unreasonable, arbitrary, or void.

Section 21: NONEXCLUSIVE LICENSE

This license and the privileges granted herein shall not be exclusive, the Pinal County Board of Supervisors expressly reserves the right to grant, at any time, similar franchises, licenses, and privileges over the same highways, roads, streets, alleys, and thoroughfares, or any thereof, to any other person, firm, or corporation.

Section 22: ASSIGNMENT

Licensee agrees that neither this agreement nor any of Licensee's facilities in Pinal County rights of way shall be sold, assigned, or transferred without the prior written approval of the Pinal County Board of Supervisors. The decision to approve or deny the sale assignment, or transfer of this agreement shall be within the sole discretion of the Pinal County Board of Supervisors, and the

Board may deny Licensee's request to sell, assign or transfer the agreement if such denial is in the best interests of Pinal County.

Section 23: CONTRACT INFORMATION

All notices or correspondence concerning this agreement shall be provided in writing to:

If to Company:

ZipLink Systems, LLC
PO BOX 1489
Queen Creek, AZ 85142

If to Pinal County:

Pinal County Public Works
P.O. Box 727
Florence, Arizona 85132
(520) 866-6324

Any change in any of the foregoing contact information for either party shall be made in writing to the other party.

Section 24: EFFECTIVE DATE

This agreement shall be effective upon the filing of a fully executed original hereof with the Pinal County Clerk's Office. This agreement shall expire on the fifth anniversary thereof, unless sooner terminated by either party hereto.

Section 25: TERMINATION

This agreement may be terminated by either Pinal County or Licensee upon 180 day's written notice.

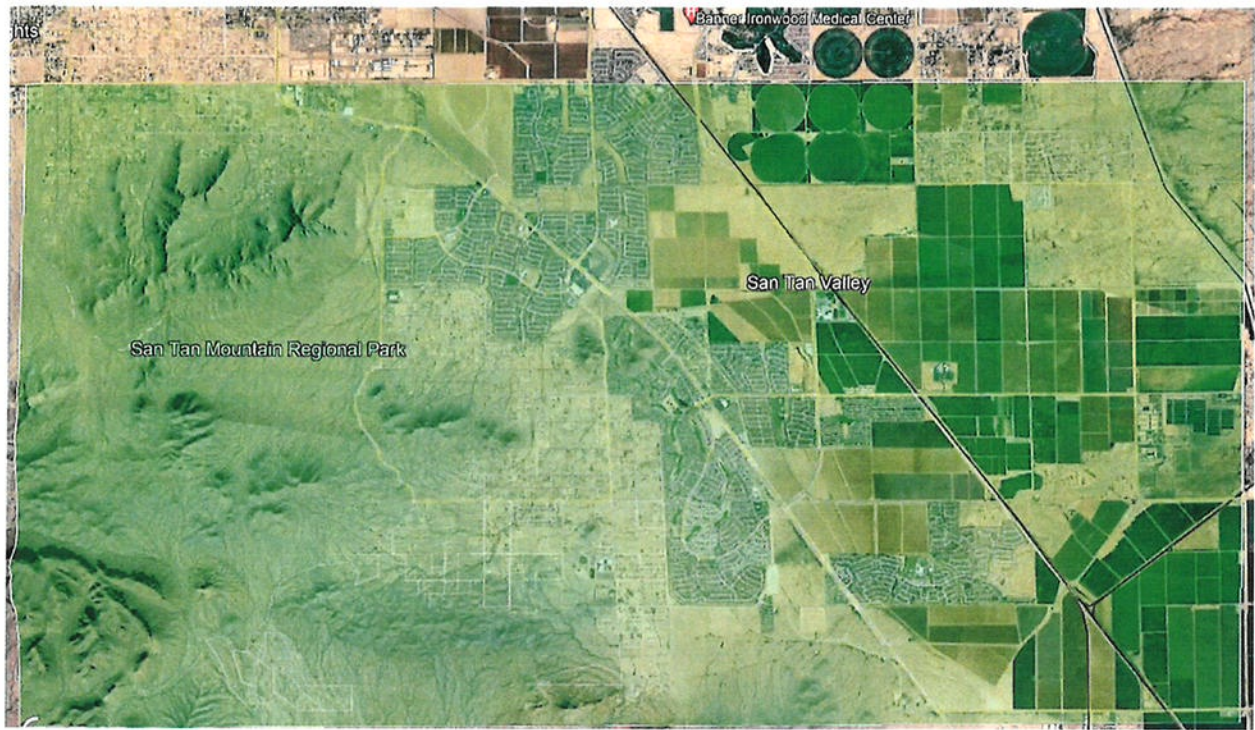
Section 26: COMPLIANCE WITH LAWS

The parties shall comply with all applicable federal, state, and local laws, rules, regulations, standards and executive orders, without limitation to those designated within this agreement.

Section 27: A.R.S. § 38-511

This agreement may be terminated for conflict of interest subject to the provisions of A.R.S. § 38-511.

Proposed coverage area



IN WITNESS WHEREOF, Licensee has caused this agreement to be executed by its Chief Financial Officer, and Pinal County has caused this agreement to be executed by the Chair of its Board of Supervisors and attested to by its Clerk.

LICENSEE:

By: [Signature]

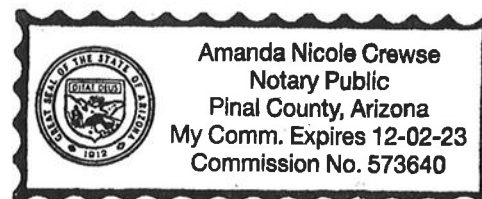
Title: CEO

State of Arizona)
) ss
County of Pinal)

This instrument was acknowledged before me this 22nd day of September, 2021,
by DAVID H. BUSCH, as CEO
of ZIPLINK SYSTEMS LLC.

[Signature]
Notary Public

My Commission Expires:
12/02/2023



PINAL COUNTY, ARIZONA

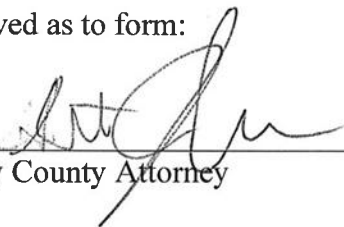
Chairman, Pinal County Board of Supervisors

Date: _____

ATTEST:

Clerk, Pinal County Board of Supervisors

Approved as to form:



Deputy County Attorney