AMENDMENT NO. 11 TO
FACILITY CONCESSION AGREEMENT
SH 130, SEGMENTS 5 & 6 FACILITY

THIS AMENDMENT NO. 11 TO FACILITY CONCESSION AGREEMENT (this "Amendment") is entered into and effective as of November 18, 2011 between the Texas Department of Transportation, a public agency of the State of Texas ("TxDOT"), and SH 130 Concession Company, LLC, a Delaware limited liability company ("Developer"), with reference to the following facts:

A. TxDOT and Developer entered into that certain Facility Concession Agreement dated as of March 22, 2007 (as amended, the "FCA"), together with related agreements collectively referred to in the FCA as the "FCA Documents". All capitalized terms used but not defined herein shall have the meanings set forth in the FCA.

B. The purpose of this Amendment is to incorporate the Multiple Use Agreement for Sharing Fiber Optic Cable and/or Related Infrastructure attached hereto as Exhibit A into the FCA Documents.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, TxDOT and the Developer agree as follows:

1. Exhibit A – Multiple Use Agreement for Sharing Fiber Optic Cable and/or Related Infrastructure. Exhibit A to this Amendment is hereby added to and made a part of the FCA Documents.

2. FCA Documents; Order of Precedence. Section 1.2.1(4) of the FCA is hereby amended to read as follows:

4. Book 2 (Technical Requirements) amendments and "Multiple Use Agreement for Sharing Fiber Optic Cable and/or Related Infrastructure."

3. Effectiveness of FCA Documents. Except as specifically amended hereby, the provisions of the FCA Documents, as previously amended by Amendments 1 - 10, are hereby confirmed without change.

4. Binding Effect of Amendment. This Amendment is entered into pursuant to Section 24.3 of the FCA, and shall be valid, effective and enforceable.
5. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed as of the day and year first above written.

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**Developer**

**SH 130 CONCESSION COMPANY, LLC**

a Delaware limited liability company

By: [Signature]

Name: Javier Gutierrez  
Title: Chief Executive Officer

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**TxDOT**

**TEXAS DEPARTMENT OF TRANSPORTATION**

By: [Signature]

Name: John A. Barton, P.E.  
Title: Deputy Executive Director
Exhibit A

MULTIPLE USE AGREEMENT FOR SHARING
FIBER OPTIC CABLE and/or RELATED INFRASTRUCTURE
MULTIPLE USE AGREEMENT
for
SHARING FIBER OPTIC CABLE and/or RELATED INFRASTRUCTURE
with
SH 130 Concession Company, LLC
and the
Texas Department of Transportation

This agreement (this “Agreement”) is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the “Department,” and SH 130 Concession Company, LLC, a Delaware limited liability company, hereinafter called the “Developer”, and collectively known as the “parties.”

In order to effectuate the development of the State Highway 130 Segments 5 and 6 facility (the “Facility”), the parties entered into that certain Facility Concession Agreement dated as of March 22, 2007 (as amended, the “FCA”), together with related agreements collectively referred to in the FCA as the “FCA Documents”. All capitalized terms used but not defined herein shall have the meanings set forth in the FCA. Except to the extent expressly provided herein, nothing in this Agreement is intended to limit, modify, supersede or otherwise alter any of the rights or obligations of the parties under the FCA.

In furtherance of the development of the Facility, the parties desire to allow Developer to connect fiber optic cable (“Fiber Optic Cable”) and related infrastructure (“Related Infrastructure”) to the Department’s Fiber Optic Cable and/or Related Infrastructure for the purpose of transmitting transportation-related data only. Related Infrastructure includes but is not limited to fiber optic facilities such as ground boxes, conduit, ducts, control cabinets, poles, structures, etc. along the Department’s roadways and right-of-way, as well as offices, operations and control centers, substations, etc. within the Department’s operations network. The desired connection and use must not cause damage to or adversely effect data, interconnections, systems, facilities, infrastructure or operations as determined by the Department.

This Agreement incorporates the provisions of Attachment A, Descriptions and Specifications of Rights Granted in Article 2; Attachment B, Request for Authorization of Fiber Optic Cable Connection; Attachment C, Request for Authorization of Fiber Optic Cable-Related Infrastructure Connection; Attachment D, Central Texas Turnpike Project Fiber Schematic; and Attachment E, Additional Details of Connection to Department Optic Fiber.

In consideration of the mutual promises contained in this Agreement and the FCA, the Department and the Developer now agree as follows:

AGREEMENT

ARTICLE 1. CONTRACT PERIOD

This Agreement becomes effective when signed by the last party whose signing makes this Agreement fully executed, and shall terminate concurrently with the termination of the FCA, or when otherwise modified or terminated, as hereinafter provided.
ARTICLE 2. RIGHTS GRANTED
A. The Department agrees to allow Developer to connect to its Fiber Optic Cable and/or Related Infrastructure as provided herein.
B. The Developer shall be allowed to use only the mutually agreed upon Department Fiber Optic Cable and/or Related Infrastructure as listed in Attachments A, B, C, and further illustrated in Attachment D and E.
C. Subject to Article 6 and the other requirements provided herein, the Department permits Developer to enter upon its right-of-way and to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace such connections of the Developer's Fiber Optic Cable and/or Related Infrastructure to the Department's Fiber Optic Cable and/or Related Infrastructure.
D. Any and all rights expressly granted to Developer to use the Department's Fiber Optic Cable and/or Related Infrastructure shall be subject to the prior and continuing right of the Department to use its Fiber Optic Cable and/or Related Infrastructure for its own purposes under applicable laws. The rights granted shall be further subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record which may affect the rights to use the Fiber Optic Cable and/or Related Infrastructure.
E. Nothing in this Agreement shall be deemed to grant, convey, create, or vest in Developer a real property interest in land, including any fee, leasehold interest, or easement.

ARTICLE 3. OPERATION AND MAINTENANCE RESPONSIBILITIES
A. Each party will be responsible for the design, engineering, installation, operation and maintenance of their respective Fiber Optic Cable and/or Related Infrastructure system and components, to include the connections, within the designated right-of-way as shown on Attachment E.
B. Each party is responsible for providing and maintaining any hardware, software, and additional infrastructure that are necessary to obtain the rights in Article 2. The Department may provide unused Intelligent Vehicle Highway System infrastructure (Intelligent transportation systems and tolling) and Department facilities to support the additional infrastructure when possible and when deemed to be in the best interest of the Department.
C. Because of unforeseen circumstances that may arise from the operation of the Department hardware or software, or other difficulties in telecommunications transmission over which the Department has no control, no guarantee is made that use of facilities will be available to the Developer at all times during the term of this Agreement. The Department is not responsible for any loss of revenue to the Developer due to any interruption in the facilities. The Department does not guarantee a minimum response time to re-establish the facilities due to Department network or system failures or any other circumstance.

ARTICLE 4. INSTALLATION STANDARDS
A. Any installation, repairs, or removal of equipment shall be performed in accordance with industry standards.
B. At the Developer’s sole cost and expense, all such work shall be done in compliance with all applicable building codes, ordinances, and other laws, rules, or regulations of governmental authorities having jurisdiction over such work, including, but not limited to, the Americans with Disabilities Act and the Texas Architectural Barriers Act.
C. The Developer must obtain all required governmental agreements, permits, and authorizations prior to beginning any such work and shall provide copies of the same to the Department upon request.
D. After commencement of the installation of the equipment, the Developer shall perform such work with due diligence to its completion.
E. The Developer is solely responsible for meeting and adhering to the above listed standards notwithstanding the Department’s approval of plans and specifications.
ARTICLE 5. INSTALLATION OF EQUIPMENT
A. The Developer shall install any necessary hardware, software, or other infrastructure at its sole cost and risk, in accordance with Attachments A - E hereto, which have been reviewed and approved by TxDOT to ensure compatibility with existing equipment and software.
B. Prior to any equipment installation, engineering design, or operations and maintenance of the Fiber Optic Cable and/or Related Infrastructure by the Developer, Developer shall provide plans and specifications for such work which shall be subject to the Department’s review and approval to ensure compatibility with existing equipment and software.
C. All equipment shall be clearly labeled to identify it as equipment installed by the Developer.
D. The Developer shall provide all interface items required to maintain the equipment.
E. Access by the Developer’s employees or contractors to the equipment located at the Department’s facility will be by appointment only and must have designated Department personnel present.

ARTICLE 6. NOTICE TO PROCEED
A properly completed Request for Authorization of Fiber Optic Cable and/or Related Infrastructure Connection form, attached to this Agreement as Attachments B and C, shall be submitted to the Department for approval prior to any work being done. The Department shall review and approve or disapprove the connection, in writing, within thirty (30) days. During the course of the work, any substantial changes or alterations must also be submitted to the Department for prior written approval. All work shall be done in conformity with the approved Attachment B and/or C. Upon completion of the work, the Developer shall promptly furnish suitable documentation showing the exact nature of the connection.

ARTICLE 7. INSPECTION
Ingress and egress shall be allowed at all times to the Developer’s Fiber Optic Cable and/or Related Facilities for Federal Highway Administration and Department personnel and equipment when highway maintenance operations are necessary, and for inspection purposes; and upon request, all Developer activities shall be prohibited until further notice from the Department.

ARTICLE 8. INSURANCE
To the extent that this Agreement authorizes the Developer or its contractor to perform any work on State right-of-way, before beginning work the entity performing the work shall provide the Department with proof of the Insurance Policies as required by Section 16.1 of the FCA. This coverage shall be maintained until all work on the State right-of-way is complete. If coverage is not maintained, all work on State right-of-way shall cease immediately, and the Department may recover damages and all costs of completing the work.

ARTICLE 9. AMENDMENTS
Amendments to this Agreement must be in writing and executed by both parties. Any amendments must be executed during the contract period established in Article 1, Contract Period.

ARTICLE 10. TERMINATION
A. Including the provisions established herein, this Agreement may be terminated by any of the following conditions:
   (1) By mutual written agreement; or
   (2) By the Department at any time if it determines that use by the Developer of the respective Fiber Optic Cable and/or Related Infrastructure is not in the public interest; or
   (3) By the Department, upon written notice to the Developer as consequence of (i) the Developer’s failure to comply with the requirements of this Agreement and to cure such failure in accordance with Section 10.B below or (ii) the occurrence of a Developer Default that is or becomes a Default Termination Event under the FCA.
B. If the termination is due to the failure of the Developer to fulfill its contractual obligations under this Agreement, the Department will notify the Developer that a possible breach of
contract has occurred. If it is determined by the Department that an actual breach has occurred, the Developer must remedy the breach as outlined by the Department to the Department's satisfaction within thirty (30) days from receipt by Developer of the Department's notification. The Department will declare this Agreement terminated upon the Developer's failure to remedy the breach within the thirty (30) period; provided, however, that if the breach by its nature cannot be cured within thirty (30) days, then the Department shall not terminate this Agreement if the Developer commences such cure within thirty (30) days of the notice of the breach, and thereafter diligently prosecutes such cure to completion.

C. Except as provided in Section 10.D below, termination of the Agreement shall extinguish all rights, duties, obligations and liabilities of the Department and the Developer under this Agreement.

D. Termination or expiration of this Agreement shall not extinguish any of the Developer's or the Department's obligations under this Agreement that by their terms continue after the date of termination or expiration.

E. The Department may conduct periodic reviews to determine whether continuation of this Agreement is in the public interest. Termination of this Agreement shall not relieve the Developer of its tolling obligations under the FCA, including the obligation to provide a communication link to the CSC Host. A change in Developer's connection point to the Department's network shall not entitle Developer to any Claim or additional compensation.

ARTICLE 11. REMEDIES
An uncured violation or breach of this Agreement by the Developer shall be grounds for termination of this Agreement. Developer's failure to materially observe or perform or cause to be observed or performed any material covenant, agreement, obligation, term or condition required to be observed or performed by Developer under this Agreement shall be a Developer Default under the FCA. Any increased costs arising from the Developer's default, breach of contract or violation of this Agreement terms shall be paid by the Developer.

ARTICLE 12. RELATIONSHIP BETWEEN THE PARTIES
Each party acknowledges that it is not an agent, servant, or employee of the other party. Each party is responsible for its own acts and deeds and for those of its agents, servants, or employees.

ARTICLE 13. ASSIGNMENT PROHIBITION
The Developer is prohibited from assigning any of the rights conferred by this Agreement, to any third party without the advance written approval of the Department. Any attempted transfer of the rights or obligations of this Agreement without the Department's consent shall be void and shall be grounds for termination of this Agreement.

ARTICLE 14. HOLD HARMLESS
The Developer shall indemnify and save harmless the Department and its officers and employees from all claims and liability due to its materials or activities of itself, its agents, or employees, performed under this Agreement and that are caused by or result from error, omission, or negligent act of the Developer or of any person employed by the Developer. The Developer shall also indemnify and save harmless the Department from any and all expense, including but not limited to attorney fees that may be incurred by the Department in litigation or otherwise resisting the claim or liabilities that may be imposed on the Department as a result of such activities by the Developer, its agents, or employees. The Developer agrees to indemnify and save harmless the Department and its officers, agents, and employees from any and all claims, damages, and attorneys' fees arising from the use of outdated data or information. The Developer's indemnification of the Department shall extend for a period of three (3) years beyond the date of termination of this Agreement. Notwithstanding anything to the contrary contained herein, the Developer's indemnity obligations hereunder shall be subject to Sections 16.5.3 and 16.5.6 of the FCA.
ARTICLE 15. GRATUITIES
Any person who is doing business with or who reasonably speaking may do business with the Department under this Agreement may not make any offer of benefits, gifts, or favors to employees of the Department. The only exceptions allowed are ordinary business lunches and items that have received the advanced written approval of the Department's executive director.

ARTICLE 16. COMPLIANCE WITH LAWS
The Developer shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules and regulations, and with the orders and decrees of any court or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When requested, the Developer shall furnish the Department with satisfactory proof of this compliance. The Developer shall provide or obtain all applicable permits, plans, or other documentation required by a federal or state entity.

ARTICLE 17. STATE AUDITOR'S PROVISION
The State Auditor may conduct an audit or investigation of any entity receiving funds from the Department directly under the contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit.

ARTICLE 18 NOTICES
All notices to either party by the other party required under this Agreement shall be delivered in accordance with the notice provisions set forth in Section 24.12 of the FCA. In addition, copies of all notices sent by Developer under this Agreement shall be delivered to the following person:

Texas Department of Transportation
ATTN: Director, Maintenance Division
125 East 11th Street
Austin, Texas 78701

ARTICLE 19. SIGNATORY AUTHORITY
Each signatory warrants that the signatory has the necessary authority to execute this Agreement on behalf of the entity represented.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN TESTIMONY WHEREOF, the Department and the Developer have executed duplicate counterparts of this Agreement.

SH 130 CONCESSION COMPANY, LLC,
a Delaware limited liability company

By: Javier Gutiérrez
    Chief Executive Officer

Date: 11-29-2011

THE STATE OF TEXAS
Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: Frank P. Holzman, P.E.
    SH 130 Project Manager

Date: 11-18-2011
Attachment A:

descriptions and specifications of rights granted in article 2

department agrees to allow the developer access to and use of department's existing ground boxes, conduit and fiber optic strands as described below:

a. developer will be allowed reasonable access to the following ground boxes:

1. originating ground box near station 2891+60, located near u.s. 183 and sh 130.
2. ground box near station 2873+00 required for access to cctv #5.
3. ground box near station 2812+00 required for access to dms 1 sign.
4. terminating ground box near station 2755+00 on segment 4 at the moore rd. exit ramp.
5. all ground boxes between station 2891+60 and station 2755+00 as needed to pull developer's fiber optic cable to the above locations.

b. developer will be allowed to utilize conduit duct "a" ("conduit a"), as described in the duct bank identification layout provided in attachment e-5 hereto. developer must install all cable racks and support in any access point used, if not already existing. developer must clearly and permanently label any cable with owner and purpose at each access point.

c. conduit a will be used by developer to install new fiber to originate at the ground box near station 2891+60, and terminate at the ground box near station 2755+00 on state highway 130, segment 4 ("sh 130, segment 4") at the moore rd. exit ramp.

d. prior to splicing, developer will confirm via vfl (visible light) testing into the existing fiber optic cable at moore road two (2) of four (4) fibers identified for facility use in order to verify correct fibers at the termination point. the fiber optic cables will be tested bi-directionally at both operational wavelengths (1310nm & 1550nm) by using a calibrated optical time domain reflectometer (otdr) with the results provided. in addition, optical link loss tests shall be performed on all strands in a singular direction to corroborate the otdr traces. once testing is complete, department will provide developer with a list of fibers to use.

e. department will provide access to mainline 8 for developer to perform the splice. developer will be responsible for accessing department's existing fiber optic cable located in the ground box at moore road and splicing four (4) strands of single mode fiber into the existing fiber optic cable. the fiber optic cables will be spliced in accordance with ansi/tia/ eia-568-b.1 standards. once the fiber optic cable is spliced, department will coordinate with developer and provide developer with two fiber optic cable termination points at the mainline toll facility located at station 2512+00 on sh 130, segment 4 ("ml 8"), where they will be connected to the department's network already in operation and complete the communication link to department's customer service center located along sl 1 (toll) just north of parmer lane. this will allow developer to verify the fibers provided are correct and developer will need to test the fiber at the location as well.
f. The exact fibers will be provided once work commences and the additional two fibers will be left and used either for spares or future use as agreed to by Department and Developer.

g. The Department shall provide the Internet Protocol (IP) address scheme to the Developer in order to program the Ethernet routing for both the Developer and Department to exchange data.

h. Attachment E hereto provides additional details of the connection to TxDOT optic fiber.
   • Page E-1: ITS Layout Sheet 16 Fiber origination point
   • Page E-2: ITS Layout Sheet 13 CCTV #5 ground box location
   • Page E-3: ITS Layout Sheet 12 DMS #1 sign location
   • Page E-4: Segment 4 Section 158 Traffic Plans Sheet 3 of 16
   • Page E-5: Duct Bank Identification Layout
Attachment B:
REQUEST FOR AUTHORIZATION of FIBER OPTIC CABLE CONNECTION

Requested by: SH 130 Concession Company, LLC

Section A – Ingress Fiber Access Location Information

<table>
<thead>
<tr>
<th>Ingress Location Identification</th>
<th>Location 1: Existing TxDOT Ground Box at Station 2891+60 for SH 130 ITS backbone interface (see ITS Layout Sheet 16)</th>
<th>Location 2: Existing TxDOT Ground Box near Station 2873+00 for access to CCTV #5 (see ITS Layout Sheet 13)</th>
<th>Location 3: Existing TxDOT Ground Box near Station 2812+00 for access to DMS #1 (see ITS Layout Sheet 12)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ingress Location Address</td>
<td>Location 1: NE quadrant SH45SE/US183NB (Station 2891+60, see ITS Layout Sheet 16)</td>
<td>Location 2: SB frontage of SH45SE, west of US183 (approximate Station 2873+00, see ITS Layout Sheet 13)</td>
<td>Location 3: SH130 SB exit ramp for US183 (approximate station 2812+00, see ITS Layout Sheet 12)</td>
</tr>
<tr>
<td>Fiber Interface Method</td>
<td>X Dark Fiber Splice</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interface Quantity</td>
<td>4 strands of fiber</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interface Optical Wavelength</td>
<td>□ 850 nm □ 1310 nm □ 1550 nm □ -- Other: please specify --</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maximum Interface Bandwidth</td>
<td>□ T-1 □ NTSC □ 10Mbps □ 100 Mbps □ -- Other: please specify --</td>
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<td></td>
</tr>
<tr>
<td>Special Ingress Requirements and Comments</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
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Section B – Egress Fiber Access Location Information

<table>
<thead>
<tr>
<th>Egress Location Identification</th>
<th>Existing TxDOT Ground Box near Station 2755+00 on SH 130, Segment 4 at the Moore Road exit ramp (see Attachment E-4)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Egress Location Address</td>
<td>9409 South SH 130 Austin, TX 78719</td>
</tr>
<tr>
<td>Special Egress Requirements and Comments</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Technical Contact Person: Guy Russell 0526
Phone Number: 512-407-0526
Activation Date Requested: 12/15/11
Requested By: Javier Gutierrez
Section C – TxDOT Review and Response

Engineering Comments: None

Engineering Recommendation: □ Approve
□ Do Not Approve

Engineering Reviewed By: Date: 11-12-11

Approved by: Date: 11-12-11
Fred D. Woodall, P.E.
Interim Director, Toll Operations Division
**Attachment C:**

**REQUEST FOR AUTHORIZATION of INFRASTRUCTURE CONNECTION**

Requested by: SH 130 Concession Company, LLC

**Section A – Ingress Infrastructure Access Location Information**

<table>
<thead>
<tr>
<th>Ingress Point</th>
<th>Ingress Location Address</th>
<th>Ingress Location Identification</th>
<th>Type Infrastructure</th>
<th>Cable Type</th>
<th>Special Ingress Requirements and Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>3’ conduit</td>
<td>multi mode fiber optic cable -- quantity --</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>TxDOT Existing Conduit</td>
<td>single mode fiber optic cable # 4 strands</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>4’ multiduct conduit</td>
<td>-- Other: please specify --</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td># strands -- quantity --</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Section B – Egress Infrastructure Access Location Information**

<table>
<thead>
<tr>
<th>Egress Point</th>
<th>Egress Location Address</th>
<th>Egress Location Identification</th>
<th>Special Egress Requirements and Comments</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Existing TxDOT Ground Box near Station 2755+00 on SH 130, Segment 4 at the Moore Road exit ramp (see Attachment E-4)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Section C – TxDOT Review and Response

Engineering Comments: None

Engineering Recommendation: [☐] Approve

[☐] Do Not Approve

Engineering Reviewed By: [Signature] Date: 11-15-11

Approved by: [Signature] Date: 11-14-11

Fred D. Woodall, P.E.
Interim Director, Toll Operations Division
ATTACHMENT E-5

SH 130/SH 45 SE
DUCT BANK
IDENTIFICATION LAYOUT