

**MOTION:**

**September 19, 2017**

**SECOND:**

**Regular Meeting**

**Res. No. 17-**

**RE:**

**AUTHORIZE A PUBLIC HEARING TO CONSIDER APPROVING A LICENSE AND RELOCATION AGREEMENT WITH METRODUCT SYSTEMS OF VA, LLC, ACROSS COUNTY-OWNED PROPERTY FOR THE PROPOSED RELOCATED BALLS FORD ROAD – BRENTSVILLE MAGISTERIAL DISTRICT**

**ACTION:**

**WHEREAS**, MetroDuct Systems of VA, LLC has requested approval of a license and relocation agreement with the County to build a fiber line for the connection of data centers within the County; and

**WHEREAS**, the licensed area that is requested by MetroDuct Systems of VA, LLC is part of the proposed relocated Balls Ford Road; and

**WHEREAS**, MetroDuct Systems of VA, LLC needs access to 1,192 square feet across County-owned property to build their fiber line network for the connection of data centers; and

**WHEREAS**, as part of the license and relocation agreement with the County, MetroDuct Systems of VA, LLC will post a \$50,000, 30-year bond. This agreement will eliminate the County from any relocation expenses, once the licensed area is needed for the proposed relocation project of Balls Ford Road; and

**WHEREAS**, a public hearing must be conducted prior to conveying an interest in County-owned property as required by Section 15.2-1800 of the VA Code Ann., and

**WHEREAS**, County staff recommends authorizing a public hearing to consider a license and relocation agreement with MetroDuct Systems of VA, LLC, across County-owned property as shown on the attachment;

**NOW, THEREFORE, BE IT RESOLVED**, the Prince William Board of County Supervisors does hereby authorize a public hearing to consider approving a license and relocation agreement with MetroDuct Systems of VA, LLC, across County-owned property for the proposed relocated Balls Ford Road as shown on the attachment.

**September 19, 2017**  
**Regular Meeting**  
**Res. No. 17-**  
**Page Two**

ATTACHMENT(S): License and Relocation Agreement between Metroduct Systems of VA, LLC, and the Board of County Supervisors

Exhibit Plat for MetroDuct Ststems VA LLC. Showing a 10" Easement Across the Property of Prince William County, Located in the Brentsville District, Dated June 26, 2017.

**Votes:**

**Ayes:** Anderson, Caddigan, Candland, Jenkins, Lawson, Nohe, Principi, Stewart

**Nays:** None

**Absent from Vote:** None

**Absent from Meeting:** None

**For Information:**

County Attorney

Transportation Director

**ATTEST:** \_\_\_\_\_  
**Clerk to the Board**

## LICENSE AND RELOCATION AGREEMENT

**THIS LICENSE AND RELOCATION AGREEMENT** ("Agreement") is made as of this \_\_\_ day of \_\_\_\_\_, 2017 between PRINCE WILLIAM COUNTY ("Licensor"), having an address of \_\_\_\_\_ and MetroDuct Systems of VA LLC, a Virginia limited liability company, its permitted successors and/or assigns, having an address of 1366 Dublin Road, Columbus, Ohio 43215 ("Licensee").

### RECITALS

A. Licensor is the owner of certain real property in Prince William County Virginia as more particularly described on Exhibit A attached hereto and made a part hereof (the "Property").

B. Subject to the terms set forth herein, including Licensees obligation to relocate its facilities at it own cost, Licensor desires to allow Licensee the right to access and use its property, as shown on Exhibit A for the purpose of installing conduit and associated manhole/handhole facilities (the "Conduit System") within the Property to allow Licensee to provide services to its customers.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. ***Grant of License.*** Licensor hereby grants to Licensee the nonexclusive right and license to install, maintain, operate, use, replace and remove cable and optical fibers, in the portion of the Property that are for Licensee's use (collectively, the "Telecommunications Facilities"). Licensee will occupy approximately 119.2 linear feet as shown in Exhibit A.

2. ***Installation, Construction and Bond.*** All work pursuant to this Agreement to be performed to, on or in the Property, shall be performed by Licensee, in accordance with plans approved by Licensor in accordance with this Agreement, and completed no later than December 31, 2017. All installations by Licensee shall be made in compliance with applicable law. Prior to installing any Telecommunications Facilities, Licensee shall submit detailed plans and specifications of the planned installation to Licensor, for Licensor's approval, which approval shall not be unreasonably withheld or delayed. Licensor shall respond to Licensee's proposed plans within ten (10) business days after receipt with either approval or the changes required for Licensor's approval. Prior to commencing any work, Licensee will provide Licensor with a bond in the amount of \$50,000 in the form attached hereto as Exhibit B.

3. ***Access, Repair and Maintenance.*** Licensee will be solely responsible for complying with Miss Utility requirements. Licensee shall have access to the Property as required in order to allow Licensee to maintain, operate, repair, replace and/or remove its Telecommunications Facilities.

4. ***Relocation and VDOT Land Use Permit.*** Although the Property is not currently right of way or a part of the primary or secondary state highway system, Licensor is currently seeking funds to place relocated Balls Ford Road across the Property and Licensee acknowledges

that it will have to relocate its Telecommunications Facilities to accommodate the construction of current or future planned road improvements on the Property. The Licensee agrees to move, remove, alter, or change any installation that interferes with the ultimate construction of the planned road improvements in alignment or grade at no cost to Licensor.

Whenever road improvements are made across the Property, Licensee acknowledges that it will pay for the relocation of the Telecommunications Facilities, if required to do so by Licensor or VDOT. Licensor shall notify Licensee of the need to relocate the Telecommunications Facilities and Licensee will relocate the Telecommunications Facilities within 60 days of receiving such notification. If Licensee does not relocate the Telecommunications Facilities within the time allowed by Licensor, the Licensee's bond will be forfeited, at the sole discretion of Licensor and without precluding any other remedies available to Licensor, to reimburse Licensor for the cost of relocating the Telecommunications Facilities.

If Licensee breaches this Agreement and fails to remedy within 14 days after written notice, Licensor may, at its discretion, (i) complete any of the work covered by this License, (ii) restore any road improvements on the Property to applicable standards, and/or (iii) relocate the Telecommunications Facilities as specified above, and invoice Licensee for the actual cost of all or any such work. Licensee may be required to move, alter, change or remove from the Property, in a satisfactory manner, any installation made under this license.

Upon construction of any road improvements Licensor will need to keep all roads maintained in a safe and travelable condition at all times. Therefore, this license may be revoked or suspended when in the opinion of the Licensor's designee, the safety, use or maintenance of the road improvements so requires.

Moreover, should any road improvements located on the Property become part of the primary or secondary state highway system, Licensee acknowledges that this license shall expire and Licensee shall be required to obtain a land use permit from the Virginia Department of Transportation, or its successor.

5. **Utilities.** Licensee shall be responsible for procuring such utility services as are necessary for the operation of the Telecommunications Facilities.

6. **Insurance.** Licensee shall release Licensor from any liability for damage to Licensee's personal property. Licensee shall maintain commercial general liability insurance in an amount not less than \$1,000,000 combined single limit, which may be covered by umbrella insurance coverage, and shall, upon request, furnish Licensor with a certificate of insurance. Licensee agrees to carry such other insurance as it may be required to carry by law, such as worker's compensation insurance coverage.

7. **Liens.** Licensee shall not permit or allow any mechanic's, laborer's or materialman's lien to be filed against the Property or any part thereof by reason of work, labor, services or materials furnished to Licensee, and if such lien shall be so filed, Licensee shall, following notice thereof, cause such lien to be discharged of record or bonded during the continuance of any dispute. The Telecommunications Facilities shall at all times remain the property of Licensee and Licensee shall have the right to finance the Telecommunications

Facilities and to grant liens to its lenders against the Telecommunications Facilities. Licensee shall have the right to record uniform commercial code notice filings to give public notice of Licensee's ownership of the Telecommunications Facilities.

8. **Condemnation.** If the land upon which the Telecommunications Facilities are located is taken by eminent domain or deed in lieu thereof such that Licensee is denied access to or use of the Telecommunication Facilities, the Telecommunications Facilities or the ability to remain connected to its customers, then Licensee shall have the right to terminate this Agreement without further liability.

9. **Taxes.** Licensee shall be responsible for any personal property taxes levied or assessed against the Telecommunications Facilities owned by Licensee. Licensee shall furnish Licensor with evidence of payment of such taxes promptly following Licensor's request therefor.

10. **Removal of Telecommunications Facilities.** At the termination of this Agreement, Licensee shall have the right to remove the Telecommunications Facilities, provided Licensee repairs any damage caused by such removal.

11. **Bind and Inure; Assignment.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and/or assigns. This Agreement is irrevocable, except in accordance with its express terms. This Agreement and the rights of Licensee hereunder may be assigned without the prior written consent of the Licensor in connection with a sale of all or substantially all of the assets or ownership interests of Licensee, or to an entity controlling Licensee, under common control with Licensee or controlled by Licensee. All other assignments shall be subject to the prior written consent of the Licensor, which consent shall not be unreasonably withheld, conditioned or delayed.

12. **No Implied Waiver.** No delay or omission by a party in the exercise of any right or remedy upon any breach by the other party shall impair such right or remedy or be construed as a waiver.

13. **Notices.** Except in the case of emergencies, all notices and other communications hereunder shall be in writing either personally delivered or mailed, via certified mail, return receipt requested, or sent by overnight courier to the parties at the address first set forth above or such other address as is subsequently given by written notice in accordance with this Section. Notices will be deemed to have been given upon receipt or rejection.

14. **Severability; Integration.** A determination by a court of competent jurisdiction that any provision of this Agreement or any part thereof is illegal or unenforceable shall not invalidate the remainder of this Agreement or such provision, which shall continue to be in effect. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior written or oral understandings. This Agreement cannot be modified except in a writing signed by the party to be bound.

15. **Governing Law.** This Agreement and the rights and obligations of the parties shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.

16. ***Termination by Licensee Due to Failure by Certain Third Parties.*** Licensee may terminate this Agreement at any time upon written notice to Licensor without further liability if Licensee, after making reasonable efforts to do so, is unable to obtain all permits or other approvals required from any governmental authority or any easements required from any third party that are necessary to operate the Telecommunication Facilities, or if any such permit, approval or easement is canceled, expires or is withdrawn or terminated, due to no fault of Licensee.

17. ***Recitals.*** The Recitals set forth above are hereby incorporated by reference into this Agreement.

18. If the Licensee causes damage to the Property, Licensee agrees to repair such damage with reasonable promptness at its own cost and expense.

19. Licensee shall indemnify and hold Licensor harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of its use and occupancy of the Property by Licensee, its servants or agents, including any sums ordered to be paid or expended by Licensor by any governmental entity as a fine, penalty or damages for any violation of any applicable environmental law, or to remediate any hazardous or other material, including illicit discharge into storm sewer systems.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

WITNESS:

WITNESS: *Monica Ferguson*

PRINCE WILLIAM COUNTY

By: *[Signature]*  
Name: Elizabeth D. Sullivan  
Title: Acting Director of Transportation

MetroDuct Systems of VA LLC

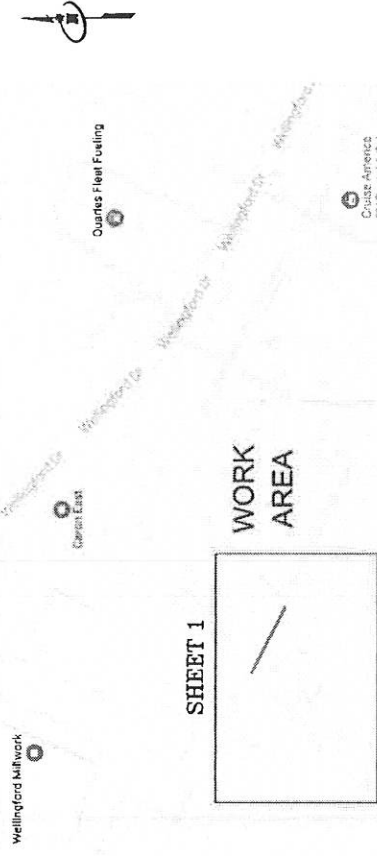
By: *[Signature]*  
Name: Travis Walter  
Title: Operations Manager

**EXHIBIT A – PROPERTY – TELECOMMUNICATIONS FACILITIES**



# Exhibit A

## METRODUCT SYSTEMS VA, LLC MAGENTA ROUTE - VDOT PERMIT DRAWINGS NEAR WEILLINGFORD DR. PRINCE WILLIAM COUNTY, VIRGINIA



NO.	DESCRIPTION	DATE	BY
1	PROJECT START		
2	PROJECT END		
3	PROJECT STATUS		
4	PROJECT LOCATION		
5	PROJECT TYPE		
6	PROJECT OWNER		
7	PROJECT CONTACT		
8	PROJECT PHONE		
9	PROJECT FAX		
10	PROJECT EMAIL		
11	PROJECT WEBSITE		
12	PROJECT ADDRESS		
13	PROJECT CITY		
14	PROJECT STATE		
15	PROJECT ZIP		

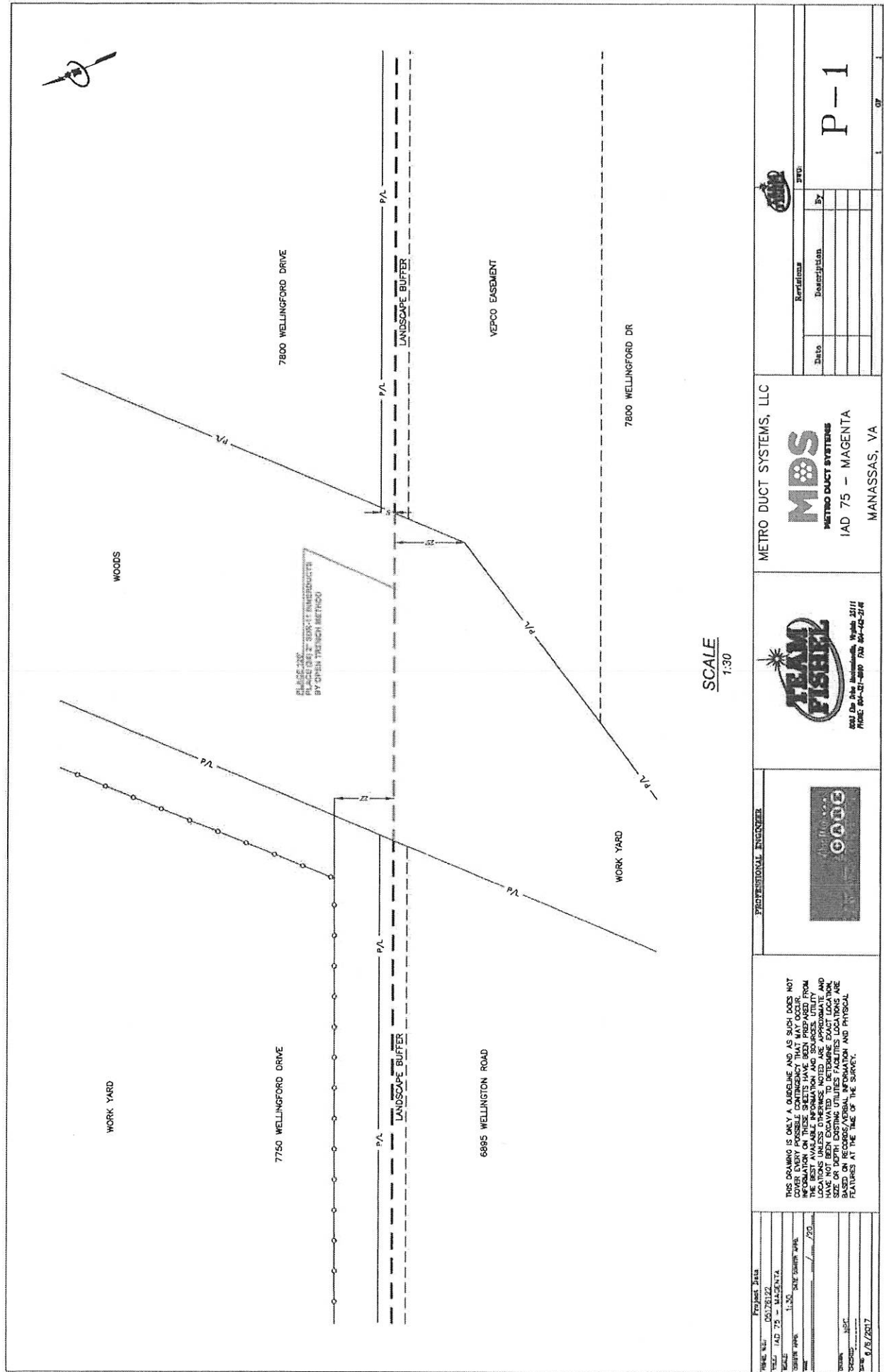
### WORK TO BE PERFORMED:

1. METRODUCT SYSTEM VA, LLC IS PROPOSING TO INSTALL A DIVERSE UNDERGROUND CONDUIT ROUTE NEAR WEILLINGFORD DR. FROM EXISTING FACILITIES TO NEW CONSTRUCTED FACILITIES.
2. UPON COMPLETION OF ALL OUTSIDE WORK, THE CONTRACTOR WILL RETURN TO COMBINE RESTORATION, WEATHER PERMITTING.
3. INSTALL TELECOM FACILITIES ±120' OF (24)-" 2" SD-11 HOPE CONDUIT.

SCALE  
NTS

<b>TEAM FISHER</b> 4853 Dixie Highway, Manassas, Virginia 20111 Phone: 801-271-4800 Fax: 801-402-2148		<b>MDS</b> METRO DUCT SYSTEMS IAD 75 - MAGENTA MANASSAS, VA		METRO DUCT SYSTEMS, LLC	
PROFESSIONAL ENGINEER				DATE: 8/9/2017	
THIS DRAWING IS ONLY A GUIDELINE AND AS SUCH DOES NOT COVER EVERY POSSIBLE CONTINGENCY THAT MAY OCCUR. INFORMATION ON THESE SHEETS HAVE BEEN PREPARED FROM FIELD SURVEY DATA AND ARE APPROXIMATE. LOCATIONS HAVE NOT BEEN LOCATED TO DETERMINE EXACT LOCATION, SIZE OR DEPTH. EXISTING UTILITIES FACILITIES LOCATIONS ARE BASED ON RECORD DRAWINGS AND FIELD SURVEY DATA.					
PROJECT NO.: IAD 75 - MAGENTA SHEET NO.: NOT TO SCALE DATE: 8/9/2017		PROJECT NO.: IAD 75 - MAGENTA SHEET NO.: NOT TO SCALE DATE: 8/9/2017		PROJECT NO.: IAD 75 - MAGENTA SHEET NO.: NOT TO SCALE DATE: 8/9/2017	
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COVER					

# Exhibit A



SCALE  
1:30

PROJECT NAME	AD 75 - MAGENTA
DATE	11/20/2017
SCALE	1:30
PROJECT NO.	170
DATE	11/20/2017

THIS DRAWING IS ONLY A GUIDELINE AND AS SUCH DOES NOT COVER EVERY POSSIBLE CONTINGENCY THAT MAY OCCUR. INFORMATION ON THESE SHEETS HAVE BEEN PREPARED FROM FIELD SURVEY DATA AND ARE NOT TO BE USED FOR CONSTRUCTION UNLESS OTHERWISE NOTED. APPROXIMATE AND HAVE NOT BEEN EXCAVATED TO DETERMINE EXACT LOCATION. LOCATIONS UNLESS OTHERWISE NOTED ARE APPROXIMATE AND HAVE NOT BEEN EXCAVATED TO DETERMINE EXACT LOCATION. LOCATIONS UNLESS OTHERWISE NOTED ARE APPROXIMATE AND HAVE NOT BEEN EXCAVATED TO DETERMINE EXACT LOCATION. LOCATIONS UNLESS OTHERWISE NOTED ARE APPROXIMATE AND HAVE NOT BEEN EXCAVATED TO DETERMINE EXACT LOCATION. LOCATIONS UNLESS OTHERWISE NOTED ARE APPROXIMATE AND HAVE NOT BEEN EXCAVATED TO DETERMINE EXACT LOCATION.

**PROFESSIONAL ENGINEER**

**TEAM FISHBELL**  
2000 E. 1st Ave. Manassas, VA 20108  
PHONE: 804-427-8800 FAX: 804-427-8801

**MDS**  
METRO DUCT SYSTEMS  
IAD 75 - MAGENTA  
MANASSAS, VA

METRO DUCT SYSTEMS, LLC

Revisions	By	Date
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

P-1

**EXHIBIT B - Bond**

**To be provided prior to construction.**

# PERFORMANCE BOND

<b>BOND NO:</b> 30013879	<b>DATE BOND EXECUTED:</b> August 10th, 2017
<b><u>PRINCIPAL</u></b>  Legal Name    MetroDuct Systems VA LLC  Address        1366 Dublin Rd. Columbus, OH 43215  <b><u>SURETY</u></b>  Name            Western Surety Company  Address        333 S. Wabash Ave., 41st Fl. Chicago, IL 60604  A.M. Best No.   000974 A.M. Best Rating: <u>A (Excellent)</u> A.M. Best F.S.C. <u>XIII (\$1.25 Billion to \$1.5 Billion)</u>	<b>LICENSE AND RELOCATION AGREEMENT DATE:</b>  <b>PERFORMANCE DATE:</b> December 31, 2047  <b><u>AMOUNT OF BOND</u></b> Fifty Thousand Dollars and Zero Cents (IN U.S. DOLLARS)  <div style="display: flex; justify-content: space-between; padding: 0 10px;"> <span>Million(s)</span> <span>Thousand(s)</span> <span>Dollar(s)</span> <span>Cents</span> </div> <div style="border-top: 1px solid black; display: flex; justify-content: space-between; padding-top: 5px;"> <span>-----</span> <span>50,</span> <span>000</span> <span>00</span> </div>

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto recite and declare that:

1. We are held and firmly bound to the obligee Board of County Supervisors of Prince William County, Virginia (hereinafter called County), in the sum written above in lawful money of the United States of America, to be paid to the County, its successors or assigns, for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by this Bond.

2. The condition of this Bond is that if the Principal shall in every respect perform all of its obligations under the Agreement identified above, which Agreement is incorporated herein by reference, then this Bond shall be void; otherwise, the Bond shall continuously remain in full force and effect until discharge in accordance with its terms.

3. (a) Surety expressly waives any right to receive notice, review or approve any revisions to the plans, profiles and specifications referred to in the Agreement. No such revision or alteration in the work required to meet County or State standards shall in any way affect the obligation of the Surety under this Bond.

(b) By signature hereto, the Surety consents to any extension of time granted to the Principal, to permit performance of the obligations of the Agreement this Bond secures, whether

or not Surety receives notice of same, provided such additional period shall not exceed the original period allowed for performance in the Agreement without notice to and consent by the Surety.

4. Default shall be deemed to have occurred on the part of the Principal if Principal shall fail to complete its obligations under the Agreement within the time set forth therein or any extensions thereof; and default shall be deemed to have occurred prior to the expiration of such period if, in the judgment of the Director of the Department of Development Services (Director), the Principal has:

(a) Abandoned the performance of its obligations under the Agreement; or,

(b) Renounced or repudiated its obligations under the Agreement; or

(c) Clearly demonstrated through insolvency, or otherwise, including the voluntary filing a bankruptcy, that its obligations under the Agreement cannot be completed within the time allotted under the Agreement. Should the Applicant file bankruptcy, it shall provide notice of filing and obtain Bankruptcy Court permission to maintain any bonds, including this one, in place with the County.

5. In the event of default by the Principal, as defined in paragraph 4 of this Bond, the Director shall give written notice of such default to the Principal and Surety. In such event, the Surety shall elect either of the following options:

(a) Within 30 days of receipt of the default notice, Surety shall pay over to the County the full face value sum of the Bond or such lesser amount as may be specified by the Director, in his sole discretion, and be relieved of further liability under this Bond. If this option is selected by Surety, the County will take over or relet all or any part of the work required by the Agreement but not completed, and will complete the same to the extent of available funds. The costs and expenses of completing the work shall include all items set forth in Paragraph 6(b) of this Bond. If Bond funds are not sufficient to complete the work, then the County may proceed against the Principal for any difference. If there are any funds left which are not necessary for completion of the work, the County will return this excess to Surety within 30 days after work is completed; or,

(b) Within 30 days of receipt of the default notice, Surety shall give written notice to the County that it will assume the Agreement and the obligations of the Principal and shall complete the Agreement according to its terms and provisions within 180 days of said notice, the time remaining under the Performance Agreement, or such other term as may be approved by Director. In the event that Surety elects this option and then fails to faithfully perform all or any part of the work or should it unnecessarily delay all or any part of the work, then the County may proceed as provided in Paragraph 6 of this Bond.

6. Should Surety fail to elect either option in Paragraph 5 above within 30 days of receipt of default notice, or having elected option (b), should thereafter fail to perform, then in either event the County may elect among the procedures set forth in this paragraph, in any combination. The County may:

(a) take over or relet all or any part of the work not completed and complete the same for the account and at the expense of the Principal and Surety, who shall be jointly and severally liable to the County for the costs incurred in completion, including all items set forth in

Paragraph 6(b) of this Bond as the measure of damages; the actual cost to obligee, as evidenced by the written statement of the Director, shall be conclusive upon Principal and Surety as to the quantum of damages; or

(b) Bring suit, action or proceedings to enforce the provisions of this Bond. In such event, it is expressly agreed and understood that, regardless of the date of breach of the underlying Agreement or of the obligations of this Bond, the measure of damages recoverable shall be the cost of completion and/or correction of the work required by the Agreement as of the earliest of the following three dates:

- (i) When the work is actually completed and/or corrected to local and state approval and acceptance;
- (ii) Final judgment of a court of competent jurisdiction;
- (iii) Two years from the expiration of the underlying Agreement or last extension thereof.

It is further expressly agreed and understood that the measure of damages shall include in addition to the direct cost of completion or repair, expenses attributable to litigation costs, attorney's fees, procurement costs, and any cost increases arising from delay occasioned by litigation, or other proceedings necessary to enforce the provisions of this Bond, and by delays by Surety under paragraph 5(b) of this Bond.

7. In any action or proceeding initiated in connection with this Bond, and any and all obligations arising hereunder, the venue shall be the County of Prince William, Commonwealth of Virginia.

8. If any one or more of the provisions of this Bond are determined to be illegal or unenforceable by the court of competent jurisdiction, all other provisions shall remain effective.

9. Whenever notice is required, it shall be deemed given if mailed registered, return receipt requested, in the names and to the addresses given below; provided, however, that notice of change of address shall be effective if given in accordance with this paragraph. Any notice to the County shall be so given to the Department of Development Services, Attn: Bond Administrator, 5 County Complex Court, Prince William Virginia 22192 or subsequent address notice of which is given as provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Bond Agreement to be executed as of the day and year set forth above.

Bond No. 30013879

**CORPORATE SURETY**

State of Incorporation:

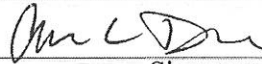
South Dakota

Legal Name and Address:

Western Surety Company (SEAL)

333 S. Wabash Ave., 41st Fl.

Chicago, IL 60604

  
Signature

BY: Abbie L. Doll  
Print Name

Attorney-in-Fact  
Title

(614) 789-6800  
Telephone No:

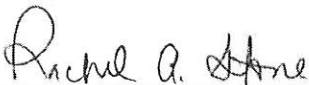
**ACKNOWLEDGMENT OF CORPORATE SURETY**

STATE OF Ohio:

COUNTY OF Franklin, to wit:

The foregoing instrument was acknowledged before me this 10th day of

August, 2017, by Abbie L. Doll  
(Name of person signing above)



Rachel A. Stone, Notary Public

My commission expires April 3, 2022



RACHEL A STONE  
Notary Public, State of Ohio  
My Commission Expires 04-03-2022

Attach valid Power of Attorney

**PRINCIPAL**

Type of Organization:  
"e.g., Corporation, Partnership, Limited Liability Co. etc.)"  
Limited Liability Company

State of Incorporation:

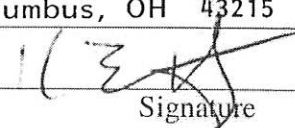
Virginia

Legal Name and Address:

MetroDuct Systems VA LLC (SEAL)

1366 Dublin Rd

Columbus, OH 43215

  
Signature

BY: Kenneth E Katz

Print Name

Vice President & Secretary

Title

614-274-8100

Telephone No:

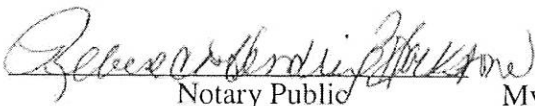
**ACKNOWLEDGMENT OF PRINCIPAL**

STATE OF Ohio:

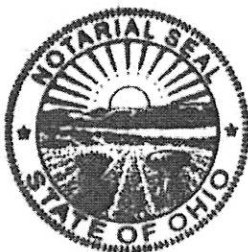
COUNTY OF Franklin, to wit:

The foregoing instrument was acknowledged before me this 10th day of August

2017, by Kenneth E. Katz  
(Name of person signing above)

  
Notary Public

My commission expires 11-13-2020



Rebecca Hendrix Blackstone  
Notary Public, State of Ohio  
My Commission Expires 11-13-2020



# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Barry C Fonarow, Brian F Haughn, Chad M Dougherty, Steven Gloeckner, Abbie L Doll, Rachel Stone, Individually**

of Dublin, OH, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

### - In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 28th day of December, 2016.



WESTERN SURETY COMPANY

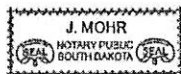
Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 28th day of December, 2016, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2021



J. Mohr, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 10th day of August, 2017.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

**WESTERN SURETY COMPANY**  
Sioux Falls, South Dakota  
Statement of Net Admitted Assets and Liabilities  
December 31, 2016

<u>ASSETS</u>	
Bonds	\$ 1,852,079,625
Common stocks	22,190,065
Cash, cash equivalents, and short-term investments	40,860,171
Investment income due and accrued	21,267,722
Premiums and considerations	31,990,790
Amounts recoverable from reinsurers	919,390
Current federal and foreign income taxes recoverable from CNA	3,116,372
Financial Corporation	16,401,098
Net deferred tax asset	9,896,461
Receivable from parent, subsidiaries, and affiliates	62,275
Other assets	
Total Assets	<u>\$ 1,998,783,969</u>

<u>LIABILITIES AND SURPLUS</u>	
Losses	\$ 229,857,438
Loss adjustment expense	68,982,110
Commissions payable, contingent commissions and other similar charges	7,779,628
Other expenses (excluding taxes, license and fees)	1,109,441
Taxes, License and fees (excluding federal and foreign income taxes)	2,678,781
Unearned premiums	213,765,490
Advance premiums	5,316,156
Ceded reinsurance premiums payable	1,730,621
Amounts withheld or retained by company for account of others	10,021,647
Provision for reinsurance	1,671,808
Payable to parent, subsidiaries and affiliates	12,103
Other liabilities	3,447,756
Total Liabilities	<u>\$ 546,372,979</u>

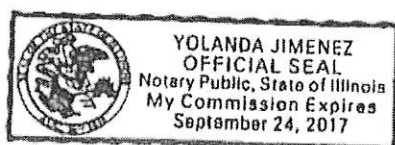
Surplus Account:	
Common stock	\$ 4,000,000
Gross paid in and contributed surplus	280,071,837
Unassigned funds	<u>1,168,339,153</u>
Surplus as regards policyholders	<u>\$ 1,452,410,990</u>
Total Liabilities and Capital	<u>\$ 1,998,783,969</u>

I, Troy Wray, Assistant Vice President of Western Surety Company hereby certify that the above is an accurate representation of the financial statement of the Company dated December 31, 2016, as filed with the various Insurance Departments and is a true and correct statement of the condition of Western Surety Company as of that date.

WESTERN SURETY COMPANY

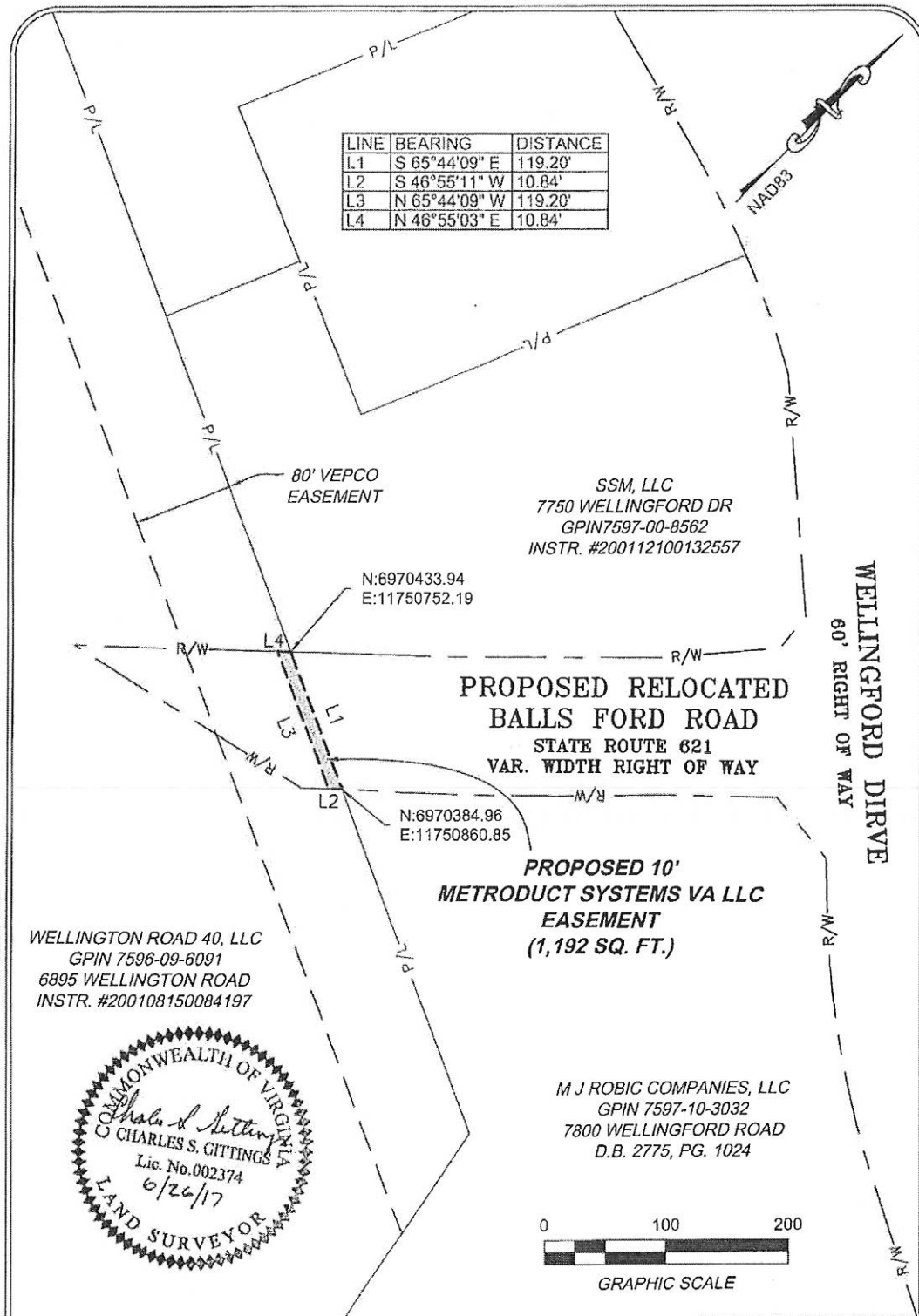
By Troy Wray Assistant Vice President

Subscribed and sworn to me this 10 day of March 2017  
My commission expires:



By Yolanda Jimenez Notary Public

# EXHIBIT "A"



This Exhibit is Drawn For The Limited Use of MetroDuct Systems VA LLC To Identify The Easement Location And Is Not Intended To Represent Accurate Survey Of The Property. This Exhibit Prepared By THE FISHEL COMPANY

MetroDuct Systems VA LLC

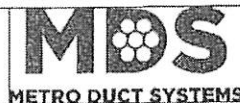
Exhibit Plat for METRODUCT SYSTEMS VA LLC. Showing a  
10' Easement Across The Property Of  
PRINCE WILLIAM COUNTY

Located in The Brentsville District, Prince William County, Virginia

DATE  
6/26/2017  
SCALE  
1"=100'

ENGINEER  
JB  
TECHNICIAN  
CFD

PAGE 1 OF 1



REVISION	
PLAT No.	MDS-17-133
WORK ORDER	05176107
LOCATION	Brentsville District
COUNTY	PRINCE WILLIAM
STATE	VIRGINIA
CK'D BY	TRACT No.
CSG	VA-PW-0017.0000



Christopher Martino  
County Executive

## COUNTY OF PRINCE WILLIAM

### OFFICE OF EXECUTIVE MANAGEMENT

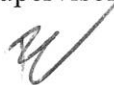
1 County Complex Court, Prince William, Virginia 22192-9201  
(703) 792-6600 Metro 631-1703 FAX: (703) 792-7484

### BOARD OF COUNTY SUPERVISORS

Corey A. Stewart, Chairman  
Jeanine M. Lawson, Vice Chairman  
Ruth M. Anderson  
Maureen S. Caddigan  
Pete Candland  
John D. Jenkins  
Martin E. Nohe  
Frank J. Principi

August 28, 2017

**TO:** Board of County Supervisors

**FROM:** Ricardo Canizales   
Director of Transportation

**THRU:** Christopher Martino  
County Executive

**RE:** Authorize a Public Hearing to Consider Approving a License and Relocation Agreement with MetroDuct Systems of VA, LLC, Across County-Owned Property for the Proposed Relocated Balls Ford Road – **Brentsville Magisterial District**

**I. Background** in chronological order is:

- A. MetroDuct Systems of VA, LLC Request – MetroDuct Systems of VA, LLC has requested approval of a license and relocation agreement with the County, in order to build a fiber line for the connection of data centers within the County.
- B. Future Road Improvement – The license area that is requested by MetroDuct Systems of VA, LLC is part of the proposed relocated Balls Ford Road.

**II. Current Situation** is as follows:

- A. MetroDuct Systems of VA, LLC Requirement – MetroDuct Systems of VA, LLC needs permission to use 1,192 square feet across County-owned property in order to build their fiber line network for the connection of data centers.
- B. License and Relocation Agreement Requirements – As part of the license and relocation agreement with the County, MetroDuct Systems of VA, LLC will post a \$50,000, 30-year bond. This agreement will eliminate the County from any relocation expenses once the licensed area is needed for the proposed relocation project for Balls Ford Road.

- C. Board Action Requested – The Board is requested to authorize a public hearing to consider approving a license and relocation agreement with MetroDuct Systems of VA, LLC, across County-owned property for the proposed relocated Balls Ford Road in the Brentsville Magisterial District.

**III. Issues** in order of importance are:

- A. Service Level/Policy Issue – What are the service levels or policy issues involved with authorizing a public hearing to consider a license and relocation agreement?
- B. Legal – How will the legal requirements be fulfilled?
- C. Timing – Is there a deadline to authorize a public hearing or for dedication to occur?
- D. Fiscal Impact – What is the cost to the County?

**IV. Alternatives**

- A. Authorize a public hearing to consider approving a license and relocation agreement with MetroDuct Systems of VA, LLC, across County-owned property for the proposed relocated Balls Ford Road in the Brentsville Magisterial District.
  - 1. Service Level/Policy Issue – Authorizing a public hearing will allow MetroDuct Systems of VA, LLC to request that the Board authorize license and relocation agreement to improve the fiber network for data centers in the County.
  - 2. Legal – In accordance with Virginia Code Section 15.2-1800, a public hearing is required prior to the disposition of County-owned property.
  - 3. Timing – There is no deadline for the County to hold a public hearing; however, MetroDuct Systems of VA, LLC would like to build out their system for the data centers in the County without any delay.
  - 4. Fiscal Impact – No costs will be incurred by the County for authorizing the public hearing beyond advertising and Board and staff time.
- B. Take No Action
  - 1. Service Level/Policy Issue – MetroDuct Systems of VA, LLC will not be able to bring the license and relocation agreement to the Board and would not be able to build out the fiber network system for data centers in the County, as planned.

2. Legal – The Board is under no legal obligation to authorize a public hearing to consider the license and relocation agreement with MetroDuct Systems of VA, LLC.
3. Timing – Not applicable.
4. Fiscal Impact – The County incurs no cost by not authorizing a public hearing however; MetroDuct Systems of VA, LLC will not be able to build out the fiber network system for data centers, which are a tax base for the County.

V. **Recommendation** is that the Board of County Supervisors concurs with Alternative A and approves the attached Resolution.

Staff Contact: Ricardo Canizales, 703-792-6825