

Chicago Title Insurance Company

FILED

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD
DEC 16 1997

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AUDITOR LAKE COUNTY
MORRIS W. CARTER

NONEXCLUSIVE COMMUNICATIONS EASEMENT AGREEMENT

THIS NONEXCLUSIVE COMMUNICATIONS EASEMENT AGREEMENT (the "Agreement") is executed as of the 9th day of December, 1997, by MEIJER, INC., a Michigan corporation ("Grantor"), with offices at 2929 Walker Avenue, N.W., Grand Rapids, Michigan 49544, and INDIANA BELL TELEPHONE COMPANY INCORPORATED (a.k.a. Ameritech Indiana), an Indiana corporation, ("Grantee"), with offices at 225 West Randolph Street, Chicago, Illinois 60602.

PREMISES

A. Grantor is the fee simple owner of that certain real property located in the Town of Merrillville, Lake County, Indiana to which Grantor took title by deed recorded as Document Number 96058012 in the Lake County, Indiana records (the "Property").

B. The Grantee has requested that Grantor grant to Grantee a nonexclusive easement over a portion of the Property in order to permit Grantee to construct, operate, maintain, repair, supplement and remove underground communications service lines, together with necessary related communications support facilities, including conduits, wires, fixtures and appurtenances (collectively, the "Utility Facilities").

C. Grantor has agreed to grant to Grantee a permanent non-exclusive easement, on the terms and conditions contained in this Agreement, in order to permit Grantee to construct, maintain, repair, replace and operate the Utility Facilities.

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

1. Grant of Nonexclusive Communications Service Line Construction, Maintenance and Operation Easement. Grantor hereby grants to Grantee, on the terms and conditions contained herein, a permanent, nonexclusive easement over, upon, under and across that portion of the Property described on attached Exhibit A (the "Easement Area"), and depicted for informational purposes on attached Exhibit B, for the purpose of permitting Grantee to

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CTIC Has made an accomodation recording of the instrument. We Have made an examination of the instrument or the land affected.

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construct, operate, maintain, repair, supplement and remove the Utility Facilities.

2. Matters of Record. The easement rights granted by this Agreement shall be subject and subordinate to all covenants, conditions, restrictions and easements of record.

3. Other Utility Lines. Prior to beginning any work in the Easement Area, Grantee shall contact the appropriate utility companies, and any other holders of easement rights over the Easement Area, and determine if there are any utility lines or equipment located in the Easement Area, in order that the Grantee may avoid damaging such lines and equipment as may exist, if any.

4. Reservation of Rights. Grantor hereby reserves to itself, its successors and assigns, the right to use the Easement Area for any purposes which do not unreasonably interfere with Grantee's use of the Easement Area for the purposes for which the easement rights described in this Agreement are being granted, which reserved rights shall include without limitation the installation, construction, maintenance and operation of landscaping, signs, parking areas, driveways, curbing, curb cuts and related improvements; provided, however, that no building shall be constructed upon the Easement Area without the written consent of Grantee, which consent shall not be unreasonably withheld.

5. Relocation. Grantor shall have the right to relocate the Utility Facilities, in whole or part, to any other location on the Property, provided that such relocation shall be performed by Grantee at Grantor's expense. In the event of any such relocation, Grantor or Grantee shall amend this Agreement and the exhibits attached hereto to the extent necessary in order to reflect of record the new location of the Easement Area.

6. Construction, Maintenance, Repair and Operation. Grantee shall construct, operate, maintain, repair, supplement and remove the Utility Facilities and exercise the rights granted herein in accordance with all applicable federal, state and local laws and regulations, and in an expeditious, efficient and workmanlike manner, so as to minimize the interference with the development, operation and use of the Property, or any part thereof, by Grantor, its successors, assigns, employees, agents, contractors, tenants, invitees and licensees. Grantee shall coordinate its activities in the Easement Area with Grantor and shall not at any time obstruct or close, in full or part, or otherwise materially interfere with any access drive serving or located on the Property without the prior written consent of Grantor. Grantee shall, to the extent permitted by applicable laws, regulations, ordinances and restrictions, have the right, but not the obligation, to cut, trim, remove or control by other reasonable means, at Grantee's expense, any trees, overhanging branches or other natural obstructions located within the Easement Area which Grantee reasonably determines may endanger the safety of or interfere with the construction, operation, maintenance or repair of the Utility Facilities, and the right of reasonable ingress and egress, at

locations designated by Grantor, for the purpose of exercising the rights granted by this Agreement. Grantee shall notify Grantor in writing prior to commencing any construction, maintenance, repair, supplementing or removal activities, except in the case of an emergency (in which case Grantee shall notify Grantor as soon as possible). Grantee shall return the Property to as near its original condition as is reasonably possible at such time as Grantee completes its construction, maintenance, repair or other operations in the Easement Area.

7. Mechanics' and Materialmen's Liens. In the event any mechanics' liens or materialmen's liens are filed against the Property, or any part thereof, in connection with the construction, operation, repair, maintenance or replacement of the Utility Facilities, or any other work performed by Grantee pursuant to the easement rights granted herein, the Grantee shall either pay or cause to be paid the same and have the liens immediately discharged of record.

8. Indemnity. Grantee shall defend, indemnify and save harmless Grantor, its parent, subsidiary and affiliated companies, their respective officers, directors, shareholders, agents, employees and contractors, from and against any and all damage, cost, expense, liability or claim thereof, whether for injury to persons, including death, or damage to property arising out of (i) any negligent or wrongful activities of the Grantee, its licensees and contractors, their agents or employees, on or about the Easement Area or the Property or in any manner arising from the construction, operation, maintenance, repair, supplementing or removal of the Utility Facilities, except to the extent resulting from the negligence of Grantor, or its parent, subsidiary and affiliated companies, their respective officers, directors, shareholders, agents, employees, licensees or contractors, in which case responsibility shall be apportioned between Grantor and Grantee based upon each party's respective percentage of fault; or (ii) any default of the Grantee hereunder.

9. Notice. Notices delivered personally or sent by certified mail to Grantor at 2929 Walker Avenue, N.W., Grand Rapids, Michigan 49544, Attention: Real Estate Department, or to Grantee at 225 West Randolph Street, Chicago, Illinois 60602, shall be sufficient notice. A notice sent by certified mail shall be deemed given on the date the notice is deposited for mailing in a United States Post Office or mail receptacle with proper postage affixed.

10. Covenants Running With Land. The easements and rights hereby granted, obligations and liabilities created, and agreements herein contained shall be easements and covenants running with the land and shall inure to the benefit of, and be binding upon, Grantor and Grantee and their respective heirs, successors and assigns.

11. Captions. The captions of the Paragraphs and Subparagraphs of this Agreement are for convenience only and shall not be considered nor referred to in resolving questions of interpretation and construction.

12. Governing Laws. This Agreement shall be construed in accordance with the laws of the State of Indiana and any applicable federal laws and regulations,

13. No Partnership. Neither anything contained in this Agreement nor any acts of Grantor or Grantee shall be deemed or construed by Grantor, Grantee or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or of association between Grantor or Grantee.

14. Not A Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property to the general public or for the general public or for any public purpose whatsoever, it being the intention of Grantor or Grantee that this Agreement be strictly limited to and for the purposes herein expressed.

15. Severability. If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16. Litigation Expense. If any party to this Agreement shall bring an action against any other party hereto by reason of the breach of any covenant, term or obligation hereof, or otherwise arising out of this Agreement, the prevailing party in such suit shall be entitled to its costs of suit and reasonable attorneys' fees, which shall be payable whether or not such action is prosecuted to judgment.

17. Exhibits. All exhibits referred to herein and attached hereto shall be deemed to be a part of this Agreement.

18. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Signed and Acknowledged
in the Presence of:

MEIJER, INC.
a Michigan corporation

Jamie Micka
(Jamie Micka)

Cynthia A. Laird
(Cynthia A. Laird)

By John S. Stephenson
John S. Stephenson,
Vice President - Real Estate

LEGAL Stephenson

BUS. Stephenson

Signed and Acknowledged
in the presence of:

INDIANA BELL TELEPHONE COMPANY
INCORPORATED, (a.k.a. Ameritech
Indiana), an Indiana corporation

David A. Williams
(DAVID A. WILLIAMS)

Larry Lear
(LARRY LEAR)

By: R. S. WULBER
Printed
Name: R. S. WULBER
Title: MANAGER, ENGINEERING

STATE OF MICHIGAN)
)
COUNTY OF KENT) ss.

9th The foregoing instrument was acknowledged before me this day of December, 1997, by John S. Stephenson, the Vice President - Real Estate of Meijer, Inc., a Michigan corporation, who acknowledged the execution of the foregoing instrument as his voluntary act and deed as said officer, and the voluntary act and deed of the corporation.

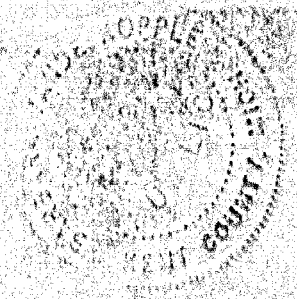
IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforementioned.

Barbara J. Vande Kopple
Notary Public

My commission expires:

4-16-99

BARBARA J. VANDE KOPPLE
Notary Public, Kent County, MI
My Commission Expires April 16, 1999



STATE OF ILLINOIS)
)
COUNTY OF COOK) ss.

The foregoing instrument was acknowledged before me this 3rd day of DECEMBER, 1997, by R. S. WULBER, the MANAGER, ENGINEERING of INDIANA BELL TELEPHONE COMPANY INCORPORATED (a.k.a. Ameritech Indiana), an Indiana corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year aforementioned.

Thomas J. Bell
Notary Public

My commission expires:

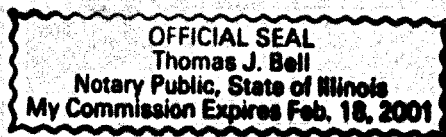


EXHIBIT A

Easement Area

Located in the south $\frac{1}{2}$ of Section 21, Township 35 North, Range 8 West of the Second Principal Meridian, in the Town of Merrillville, Lake County, Indiana, and being a 10.00 foot easement for the construction, operation, maintenance, repair and/or removal of communication lines and appurtenances as taken by parallel lines 5.00 feet on each side of a centerline described as follows:

Commencing at the intersection of the south line of U.S. 30 (Lincoln Highway) and the west line of Merrillville Road as shown on the plat of said Hoosier Plaza; thence along said south right-of-way line, on a curve to the right for an arc length of 28.05 feet, said curve having a radius of 67501.60 feet, a central angle of $00^{\circ}01'26''$, and a long chord bearing South $89^{\circ}45'51''$ West, for 28.05 feet to the Point of Beginning; thence South $10^{\circ}42'28''$ West, for 353.19 feet; thence South $31^{\circ}27'18''$ West, for 66.44 feet and there terminate.

EXHIBIT B

R=67,501.60'
 $\Delta=00^{\circ} 01' 26''$
L=28.05'
LC=S89° 45' 51"W
=28.05'

INTERSECTION OF SOUTH LINE OF US-30
AND WEST LINE OF MERRILLVILLE ROAD

POINT OF
BEGINNING

10' WIDE
COMMUNICATIONS
EASEMENT

S10° 42' 28"W
353.19'

S31° 27' 18"W
66.44'

WEST LINE OF MERRILLVILLE RD.
CENTERLINE OF MERRILLVILLE RD.



COMMUNICATIONS EASEMENT

