

City of Rock Falls

603 W. 10th Street
Rock Falls, IL 61071-2854

Mayor
William B. Wescott
815-380-5333

City Administrator
Robbin Blackert
815-564-1366



City Clerk
815-622-1100
Ext. 4

City Treasurer
Kay Abner
815-622-1100

Rock Falls City Council Agenda
Council Chambers
603 W 10th Street, Rock Falls IL 61071

October 20, 2020
6:30 p.m.

Call to Order at 6:30 p.m.
Pledge of Allegiance
Roll Call

Audience Requests

Community Affairs

Bethany Bland, President/CEO, Rock Falls Chamber of Commerce

Consent Agenda

1. Approval of the Minutes of the October 6, 2020 Regular Council Meeting
2. Approval of bills as presented

Ordinances 1st Reading:

1. Ordinance 2020-2502 – Amending Chapter 6, Article III, Division 4 of the Rock Falls Municipal Code Relating to Maintenance and Repair to the Exterior of Buildings and Structures Located Within the City’s Uptown Business Area

Resolution 2nd Reading and Adoption:

1. Resolution 2020-850 – Authorizing Transfer of Funds to Escrow Account Relating to Bond Defeasance Made in Connection with Fibernet Asset Sale

Ordinances 2nd Reading and Adoption:

1. Ordinance 2020-2493 – Ordinance Providing for the Payment of the Outstanding General Obligation Bonds (Alternate Revenue Source), Series 2017A, of the City of Rock Falls, Whiteside County, Illinois, and the Execution and Delivery of an Escrow Agreement in Connection Therewith.
2. Ordinance 2020-2494 – Authorizing Disposal of Surplus Property and Further Authorizing the Mayor to Execute an Agreement with Surf Air Wireless, LLC for the Same
3. Ordinance 2020-2499 – Amending Chapter 18, Article VI, Section 18-152 of the Rock Falls Municipal Code Prohibiting Parking Along Portions of Wolf Creek Drive

4. Ordinance 2020-2500 – Sale of Surplus Property – Fire Department
5. Ordinance 2020-2501 – Approving Contract and Authorizing the Purchase of Real Property 2211 Canal Street, Rock Falls, IL 61071 PIN: 11-33-404-019

City Administrator Robbin Blackert

1. Approval of Addendum to Employment Contract between the City of Rock Falls and A. Wayne Shafer
2. Discussion of Public Act 101-0642 – Election Day Holiday Litigation

Information/Correspondence

James Reese, City Attorney
Brian Frickenstein, City Engineer

Department Heads

Alderman Reports/Committee Chairman Requests

Ward 1

Alderman Bill Wangelin
Alderman Gabriella Palmer – Finance/Insurance/Investment Committee Chairman

Ward 2

Alderman Brian Snow – Building Code Committee Chairman

Alderman Casey Babel

Ward 3

Alderman Jim Schuneman – Utility Committee Chairman/Tourism Committee Chairman
Alderman Rod Kleckler – Public Works/Public Property Committee Chairman

Ward 4

Alderman Lee Folsom – Police/Fire Committee Chairman
Alderman Violet Sobottka – Ordinance/License/Personnel/Safety Committee Chairman

Mayor's Report

1. Request Approval of the Re-Appointment of Brian Tribley, Amy Williamson, Tom Rynott and Bethany Bland to the Tourism Committee for the terms to be November 15, 2020 through November 14, 2022

Executive Session

Action Taken from Executive Session

Adjournment

Next City Council meeting – November 3, 2020 at 6:30 p.m.

Posted: October 16, 2020

Michelle Conklin, Deputy City Clerk

The City of Rock Falls is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with Disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in the meeting, or who have questions regarding the accessibility of the meeting or the facilities, are requested to contact Mark Searing, ADA Coordinator, at 1-815-622-1108 promptly to allow the City of Rock Falls to make reasonable accommodations within 48 hours of the scheduled meeting.

REGULAR MEETING MINUTES OF THE MAYOR AND ALDERMEN
OF THE CITY OF ROCK FALLS

October 6, 2020

The regular meeting of the Mayor and City Council of Rock Falls, Illinois was called to order at 6:30 p.m. October 6, 2020 in the Council Chambers by Mayor William B. Wescott.

Deputy City Clerk Michelle Conklin called the roll following the pledge of allegiance. A quorum was present including Mayor Wescott, Aldermen Palmer, Wangelin, Snow, Babel, Schuneman, Kleckler and Sobottka. Alderman Folsom being absent. In addition, Attorney Matt Cole, Attorney James Reese and City Administrator Robbin Blackert were present.

James Star informed the City Council that he has been installed as the new Commander of Rock Falls Post #902. The Post is in dire straights and there are about 10 members that want to get it built back up again. The shut down has left the Post almost broke. Most people don't understand what the American Legion is about, it is not just a building it is a home. Some things that American Legion does is sponsor little league baseball and the park district, support veterans homes in Quincy and LaSalle, donate to food banks, school events and sports programs, there is a high school scholarship program and a nursing program.

Bethany Bland, Rock Falls Chamber of Commerce informed the City Council about the Rock Falls Chamber of Commerce Business Boot Camp Workshops and Training Program that will be held over the next few months. Bethany also thanked the City Council for all of the upgrades to the Community Building over the last year.

Consent Agenda item #3 was pulled from the consent agenda for further discussion. Consent Agenda items 1 and 2 were read aloud by Deputy City Clerk Michelle Conklin.

1. Approval of the Minutes of the September 15, 2020 Regular City Council Meeting
2. Approval of bills as presented

A motion was made by Alderman Schuneman and second by Alderman Wangelin to approve Consent Agenda items 1 and 2.

Vote 7 aye, motion carried.

A motion was made by Alderman Schuneman and second by Alderman Snow to approve Consent Agenda item #3.

3. Approve Letter of Engagement of Ice Miller LLP 200 W. Madison Street, Chicago IL 60606-3417 as bond counsel for the issuance of General Obligation Debt Certificates, Series 2020.

Vote 7 aye, motion carried.

A motion was made by Alderman Sobottka and second by Alderman Wangelin to approve first reading of Ordinance 2020-2499 Amending Chapter 18, Article VI, Section 18-152 of the Rock Falls Municipal Code Prohibiting Parking Along Portions of Wolf Creek Drive.

Viva Voce Vote, motion carried.

A motion was made by Alderman Schuneman and second by Alderman Palmer to approve Resolution 2020-853 - Resolution Waiving Customary Practice of First and Second Reading for Adoption of Ordinance in Relation to General Obligation Refunding Debt Certificates, Series 2020.

Vote 6 aye, 1 nay (Kleckler), motion carried.

A motion was made by Alderman Schuneman and second by Alderman Snow to approve Ordinance 2020-2496 Authorizing and providing for an Installment Purchase Agreement for the purpose of financing the costs of certain capital related projects in and for the City of Rock Falls, Whiteside County, Illinois, and authorizing and providing for the issue of not to exceed \$2,427,000 General Obligation Refunding Debt Certificates, Series 2020, of said City evidencing the rights to payment under such Agreement, prescribing the details of the Agreement and Certificates, and providing security for and means of payment under the Agreement of the Certificates.

Vote 7 aye, motion carried.

A motion was made by Alderman Snow and second by Alderman Schuneman to approve Ordinance 2020-2497 Sale of Electric Department Surplus Property.

Vote 7 aye, motion carried.

A motion was made by Alderman Snow and second by Alderman Sobottka to approve Ordinance 2020-2498 Ordinance Authorizing Transfer of Real Property in Connection with the City's Homestead Program (215 Avenue C, Rock Falls, IL 61071). After a short discussion it was decided that item 12 (b) would state that the time period to bring the property and the dwelling thereon into compliance with all applicable health and safety standards of the City, will be within a period of time not to exceed 12 months from the date of closing.

Vote 7 aye, motion carried.

A motion was made by Alderman Snow and second by Alderman Palmer to approve and ratify the emergency repair as authorized by the Mayor and City Administrator for the repair of a sink hole on W 2nd St and 12th Ave in the amount of \$20,340.23. Helm Group 2883 Rt 20, East Freeport, IL in the amount of \$18,996.28 and Willett, Hofmann & Associates in the amount of \$1,343.95.

Vote 7 aye, motion carried.

A motion was made by Alderman Schuneman and second by Alderman Snow to approve a lease agreement with Quadient Leasing USA, Inc., 478 Wheelers Farms Road, Milford CT 06461 in the amount of \$479.94 per month for 60 months for a folding machine in the Utility Office.

Vote 7 aye, motion carried.

A motion was made by Alderman Schuneman and second by Alderman Wangelin to approve the Water Department to install a 12" isolation Insta Valve north of Coloma Homes. Estimated cost for the project will be \$15,000.00.

Vote 7 aye, motion carried.

A motion was made by Alderman Schuneman and second by Alderman Snow to approve Resolution 2020-852 - Resolution approving the Bylaws of the Rock River Watershed Group.

Vote 7 aye, motion carried.

A motion was made by Alderman Schuneman and second by Alderman Sobottka to Approve Change Order No. 4 with Gensini Excavating, 10602 Highway 26, Princeton, IL 61356 for directional boring and reinstating broken I-Fiber Line in the amount of \$23,657.82

Vote 7 aye, motion carried.

A motion was made by Alderman Kleckler and second by Alderman Wangelin to approve an extension of the Laydown and Storage Lease with Commonwealth Edison Company - Extension Term to be February 1, 2021 through June 1, 2021.

Vote 7 aye, motion carried.

A motion was made by Alderman Sobottka and second by Alderman Snow to approve the revised job description for Fiber Outside Plant Supervisor

Vote 7 aye, motion carried.

A motion was made by Alderman Sobottka and second by Alderman Snow to approve the appointment of Chris King to the Whiteside/Carroll County Enterprise Zone Board for a term to run from October 2020 through October 2023.

Vote 7 aye, motion carried.

A motion was made by Alderman Snow and second by Alderman Palmer to enter into Executive Session for the purpose of:

1. Section 2(c)(2) - Collective negotiation matters and deliberations concerning salary schedules

Vote 7 aye, motion carried. (7:06 p.m.)

A motion was made by Alderman Snow and second by Alderman Schuneman to return to regular session.

Vote 7 aye, motion carried. (7:16 p.m.)

A motion was made by Alderman Sobottka and second by Alderman Snow to approve the Side Letter Agreement between the City of Rock Falls and the I.B.E.W. Union No. 196.

Vote 7 aye, motion carried.

A motion was made by Alderman Schuneman and second by Alderman Snow to Adjourn.

Viva Voce Vote, motion carried. (7:19 p.m.)



Michelle K. Conklin, Deputy City Clerk

CITY OF ROCK FALLS

Rock Falls, Illinois 10/20/2020

To the Mayor and City Council of the City of Rock Falls, Your Committee on Finance would respectfully report that they have examined the following bills presented against the City, and have found the same correct and would recommend the payment of the various amounts to the several claimants as follows:

Tourism		10162.63
General Fund		75798.15
Building Code Demolition Fund		733.81
Industrial Development Fund		-330.00
TIF-Downtown Redevelopment		1310.20
Electric		676962.94
Fiber Optic Broadband	Taxable	35781.50
	Tax Exempt	50056.15
Sewer		742288.93
Water		239250.37
Garbage Fund		42959.96
Customer Service Center		2422.72
Customer Utility Deposit		\$425.31
		\$1,877,822.67

Alderman Kleckler
Alderman Wangelin
Alderman Palmer

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CITY OF ROCK FALLS
DEPARTMENT SUMMARY REPORT

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INVOICES DUE ON/BEFORE 10/09/2020

VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE

TOURISM			
05	TOURISM		
2528	LAMAR ADVERTISING COMPANY	7,675.00	1,535.00
2796	U.S. CELLULAR	2,058.11	77.48
T0005178	MARSH USA INC		1,447.00
	TOURISM		3,059.48
GENERAL FUND			
01	ADMINISTRATION		
4331	CIRCUIT CLERK OF LEE COUNTY	2,000.00	100.00
5048	CIVIL MATERIALS		1,000.00
5085	ASPHALT SALES CO	10,884.74	1,000.00
5292	PURE ASPHALT CO		3,000.00
	ADMINISTRATION		5,100.00
06	POLICE		
1448	IL DEPT OF INNOVATION &	1,992.15	398.43
1499	ILLINOIS ASSOCIATION OF		95.00
2380	AUTOZONE	206.78	19.98
432	ILLINOIS FIRE & POLICE	69.00	187.50
4508	LEXISNEXIS RISK SOLUTIONS	180.00	30.50
4759	NORTH EAST MULTI-REGIONAL		120.00
5096	TREASURER, STATE OF ILLINOIS	65.00	25.00
5097	ILLINOIS STATE POLICE	390.00	150.00
5098	ILLINOIS OFFICE OF THE	390.00	150.00
533	ELECTRONICS, INC.	3,445.50	318.00
	POLICE		1,494.41
10	STREET		
1165	CEC OF THE SAUK VALLEY INC	5,208.32	115.00
5141	CINTAS CORPORATION	629.19	76.41
55	ARAMARK UNIFORM SERVICES, INC.	4,446.56	188.28
	STREET		379.69
12	PUBLIC PROPERTY		

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INVOICES DUE ON/BEFORE 10/09/2020

VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE

GENERAL FUND			
12	PUBLIC PROPERTY		
533	ELECTRONICS, INC.	3,445.50	39.00
	PUBLIC PROPERTY		39.00
13	FIRE		
273	ECONOMY TROPHY CO.		10.00
3141	CERTASITE		494.55
4011	SAUK VALLEY BANK & TRUST CO.	1,010,300.30	30,008.75
423	AT&T	5,231.85	73.43
432	ILLINOIS FIRE & POLICE	69.00	187.50
	FIRE		30,774.23
TIF - DOWNTOWN REDEVELOPMENT			
19	DOWNTOWN REDEVELOPMENT		
5132	RTS MULCH INC	150.00	760.00
	DOWNTOWN REDEVELOPMENT		760.00
ELECTRIC FUND			
20	OPERATION & MAINTENANCE		
1224	AIRGAS USA LLC	1,753.95	51.91
2140	MCMASTER-CARR SUPPLY	2,182.10	70.54
2557	ASPLUNDH TREE EXPERT CO.	112,373.30	13,814.50
2611	FISCH MOTORS INC	647.00	34.00
2714	ESRI	10,000.00	116.67
4207	O'REILLY AUTOMOTIVE INC	1,965.73	24.38
5110	KUNES COUNTRY AUTO GROUP	1,112.15	1,213.62
5141	CINTAS CORPORATION	629.19	109.45
795	SBM BUSINESS EQUIPMENT CENTER	5,209.94	774.50
T0001605	JESTUN GATZ		37.51
T0004320	HOOTIES DESIGN		126.00
T0005385	PRESCOTT BROTHERS INC		670.00
	OPERATION & MAINTENANCE		17,043.08

FIBER OPTIC BROADBAND/TAXABLE

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FIBER OPTIC	BROADBAND/TAXABLE		
23	FIBER OPTIC BROADBAND/TAXABLE		
5207	INTERNET SERVICES PROVIDER NET	22,700.00	4,500.00
5225	SYNDEO NETWORKS INC	87,891.50	13,542.50
5255	SMARTRG INC	1,875.00	375.00
	FIBER OPTIC BROADBAND/TAXABLE		18,417.50
SEWER FUND			
30	SEWER		
1023	WILLETT, HOFMANN & ASSOCIATES	98,280.71	4,669.55
4040	ILLINOIS ENVIRONMENTAL	172,768.79	398,225.06
T0005358	VISU-SEWER OF ILLINOIS LLC	91,555.92	20,217.88
	SEWER		423,112.49
38	OPERATION & MAINTENANCE		
194	GRUMMERT'S HARDWARE - R.F.	2,598.19	46.78
2517	WM CORPORATE SERVICES, INC	10,662.65	168.51
2714	ESRI	10,000.00	116.66
34	ALTORFER INC.	814,628.71	96.37
4027	WHITESIDE COUNTY RECORDER	474.50	21.50
4446	MORING DISPOSAL, INC.	220,207.70	450.00
533	LECTRONICS, INC.	3,445.50	78.00
651	NICOR	9,409.35	79.65
795	SBM BUSINESS EQUIPMENT CENTER	5,209.94	14.89
	OPERATION & MAINTENANCE		1,072.36
WATER FUND			
40	WATER		
1023	WILLETT, HOFMANN & ASSOCIATES	98,280.71	11,457.70
4040	ILLINOIS ENVIRONMENTAL	172,768.79	21,319.10
631	MURRAY & SONS EXCAVATING, INC	114,695.60	2,592.00
	WATER		35,368.80
48	OPERATION & MAINTENANCE		

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VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE

WATER FUND			
48	OPERATION & MAINTENANCE		
2714	ESRI	10,000.00	116.67
2796	U.S. CELLULAR	2,058.11	358.92
2847	PDC LABORATORIES, INC.	1,998.50	1,098.00
34	ALTORFER INC.	814,628.71	117.21
4027	WHITESIDE COUNTY RECORDER	474.50	21.50
5141	CINTAS CORPORATION	629.19	25.50
55	ARAMARK UNIFORM SERVICES, INC.	4,446.56	203.01
631	MURRAY & SONS EXCAVATING, INC	114,695.60	5,175.00
OPERATION & MAINTENANCE			7,115.81
CUSTOMER UTILITY DEPOSITS			
75	CUSTOMER UTILITY DEPOSITS		
T0005383	JUAN CINTRON		51.43
T0005384	KRISTINE HIPPEN		50.00
CUSTOMER UTILITY DEPOSITS			101.43
TOTAL ALL DEPARTMENTS			543,838.28

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VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE
ELECTRIC FUND			
20	OPERATION & MAINTENANCE		
T0004041	GENSINI EXCAVATING, INC.	467,770.77	100,262.61
	OPERATION & MAINTENANCE		100,262.61
FIBER OPTIC BROADBAND/TXEXEMPT			
24	FIBER OPTIC BROADBAND/TXEXEMPT		
T0004041	GENSINI EXCAVATING, INC.	467,770.77	50,056.15
	FIBER OPTIC BROADBAND/TXEXEMPT		50,056.15
SEWER FUND			
30	SEWER		
T0004041	GENSINI EXCAVATING, INC.	467,770.77	287,323.99
	SEWER		287,323.99
WATER FUND			
40	WATER		
T0004041	GENSINI EXCAVATING, INC.	467,770.77	171,779.30
	WATER		171,779.30
	TOTAL ALL DEPARTMENTS		609,422.05

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CITY OF ROCK FALLS
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INVOICES DUE ON/BEFORE 10/16/2020

VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE

TOURISM			
05	TOURISM		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	9.15
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	2,094.00
T0001890	COLOMA TOWNSHIP PARK DISTRICT		5,000.00
	TOURISM		7,103.15
GENERAL FUND			
01	ADMINISTRATION		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	9.15
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	-5,418.60
4331	CIRCUIT CLERK OF LEE COUNTY	2,100.00	100.00
795	SBM BUSINESS EQUIPMENT CENTER	5,999.33	14.50
	ADMINISTRATION		-5,294.95
02	CITY ADMINISTRATOR		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	4.57
795	SBM BUSINESS EQUIPMENT CENTER	5,999.33	14.50
	CITY ADMINISTRATOR		19.07
03	PLANNING/ZONING		
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	-145.50
	PLANNING/ZONING		-145.50
04	BUILDING		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	18.30
194	GRUMMERT'S HARDWARE - R.F.	2,644.97	4.83
	BUILDING		23.13
05	CITY CLERK'S OFFICE		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	18.30

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VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE

GENERAL FUND			
05	CITY CLERK'S OFFICE		
795	SBM BUSINESS EQUIPMENT CENTER	5,999.33	107.00
	CITY CLERK'S OFFICE		125.30
06	POLICE		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	1,463.27
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	120.00
350	GISI BROS. INC.	4,930.05	495.29
364	GRUMMERTS HARDWARE - STERLING	393.19	65.98
4579	CROWN EXTERMINATORS, INC	180.00	50.00
4754	ILLINOIS TOLLWAY		10.00
5277	PAPER RECOVERY SERVICE CORP	285.00	75.00
752	ROCK FALLS AREA DOG CONTROL	2,468.10	534.82
825	ILLINOIS SECRETARY OF STATE		151.00
	POLICE		2,965.36
07	CODE HEARING DEPARTMENT		
4931	MUNICIPAL SYSTEMS INC	3,891.92	667.39
	CODE HEARING DEPARTMENT		667.39
10	STREET		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	1,129.65
194	GRUMMERT'S HARDWARE - R.F.	2,644.97	44.98
2611	FISCH MOTORS INC	681.00	34.00
4207	O'REILLY AUTOMOTIVE INC	1,990.11	64.52
4528	MODERN SHOE SHOP	1,403.93	539.97
4827	KELLEY WILLIAMSON COMPANY	5,971.87	651.86
5269	DIXON PAINT COMPANY	1,396.82	740.39
631	MURRAY & SONS EXCAVATING, INC	122,462.60	30,206.50
651	NICOR	9,489.00	138.83
	STREET		33,550.70
12	PUBLIC PROPERTY		

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VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE

GENERAL FUND			
12	PUBLIC PROPERTY		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	3,513.89
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	448.50
651	NICOR	9,489.00	121.26
	PUBLIC PROPERTY		4,083.65
13	FIRE		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	1,440.37
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	-660.00
2451	MENARDS	2,108.43	39.96
4559	CHUCK'S COMPRESSORS INC	295.00	935.00
4664	STAPLES ADVANTAGE	348.05	119.95
T0002968	BRANDON LEWIS		141.39
	FIRE		2,016.67
BUILDING CODE DEMOLITION FUND			
12	BUILDING CODE DEMOLITION FUND		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	210.81
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	351.00
4027	WHITESIDE COUNTY RECORDER	517.50	172.00
	BUILDING CODE DEMOLITION FUND		733.81
INDUSTRIAL DEVELOPMENT FUND			
14	INDUSTRIAL DEVELOPMENT		
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	-330.00
	INDUSTRIAL DEVELOPMENT		-330.00
TIF - DOWNTOWN REDEVELOPMENT			
19	DOWNTOWN REDEVELOPMENT		
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	195.00
5229	RECON LAWN & LANDSCAPE	355.20	355.20
	DOWNTOWN REDEVELOPMENT		550.20

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VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE

ELECTRIC FUND			
20	OPERATION & MAINTENANCE		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	7,191.99
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	1,221.90
194	GRUMMERT'S HARDWARE - R.F.	2,644.97	49.75
2611	FISCH MOTORS INC	681.00	134.00
332	FYR-FYTER, INC.	247.35	100.75
4148	BHMG ENGINEERS	217,467.61	6,000.00
4215	POWER LINE SUPPLY	35,294.93	46.50
437	ILLINOIS MUNICIPAL ELECTRIC	2,100,091.64	359,139.46
4544	UPS	160.38	12.99
4626	ENGEL ELECTRIC CO.	9,643.56	439.50
4730	FLETCHER-REINHARDT CO	10,843.16	313.98
4771	APPLIED INDUSTRIAL TECH INC		43.34
4938	MICHLIG ENERGY LTD	71,950.66	17,628.47
5008	POWER SYSTEM ENGINEERING INC	36,827.83	10,580.07
5018	USIC LOCATING SERVICES LLC	3,011.15	993.00
5210	RITZ SAFETY LLC	3,577.04	3,924.71
533	LECTRONICS, INC.	3,880.50	149.00
651	NICOR	9,489.00	247.51
795	SBM BUSINESS EQUIPMENT CENTER	5,999.33	58.35
964	UUSCO	14,373.00	5,800.00
T0001959	SAUK VALLEY PLUMBING INC		302.25
T0005256	TRI-CITY ELECTRIC COMPANY	574,397.77	145,279.73
	OPERATION & MAINTENANCE		559,657.25
FIBER OPTIC BROADBAND/TAXABLE			
23	FIBER OPTIC BROADBAND/TAXABLE		
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	17,364.00
	FIBER OPTIC BROADBAND/TAXABLE		17,364.00
SEWER FUND			
30	SEWER		
1023	WILLETT, HOFMANN & ASSOCIATES	93,611.16	4,669.55
	SEWER		4,669.55
38	OPERATION & MAINTENANCE		

DATE: 10/15/20
TIME: 15:33:46
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CITY OF ROCK FALLS
DEPARTMENT SUMMARY REPORT

PAGE: 5

INVOICES DUE ON/BEFORE 10/16/2020

VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE

SEWER FUND			
38	OPERATION & MAINTENANCE		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	19,706.60
1449	QUALITY READY MIX	14,297.38	385.00
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	3,814.85
194	GRUMMERT'S HARDWARE - R.F.	2,644.97	16.18
200	COM ED	843.56	98.56
34	ALTORFER INC.	814,842.29	417.69
4528	MODERN SHOE SHOP	1,403.93	-188.99
4684	SCHMITT PLUMBING & HEATING INC	12,119.40	340.35
4827	KELLEY WILLIAMSON COMPANY	5,971.87	345.84
5060	SAUK VALLEY PEST CONTROL INC	695.00	90.00
651	NICOR	9,489.00	1,084.46
	OPERATION & MAINTENANCE		26,110.54
WATER FUND			
40	WATER		
1023	WILLETT, HOFMANN & ASSOCIATES	93,611.16	11,457.70
1449	QUALITY READY MIX	14,297.38	1,265.00
	WATER		12,722.70
48	OPERATION & MAINTENANCE		
1224	AIRGAS USA LLC	1,805.86	42.20
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	6,648.35
1449	QUALITY READY MIX	14,297.38	341.25
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	1,179.25
194	GRUMMERT'S HARDWARE - R.F.	2,644.97	442.46
2451	MENARDS	2,108.43	29.48
2606	MIKE'S REPAIR SERVICE	1,718.64	174.95
4141	JEFF BEHRENS EXCAVATING	5,205.00	1,130.00
4707	KIMBALL MIDWEST	557.60	816.99
4827	KELLEY WILLIAMSON COMPANY	5,971.87	301.38
5238	FDI INC	1,000.00	500.00
651	NICOR	9,489.00	176.38
829	SELF HELP ENTERPRISE	136.40	328.00
T0001959	SAUK VALLEY PLUMBING INC		153.07
	OPERATION & MAINTENANCE		12,263.76

DATE: 10/15/20
TIME: 15:33:46
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CITY OF ROCK FALLS
DEPARTMENT SUMMARY REPORT

PAGE: 6

INVOICES DUE ON/BEFORE 10/16/2020

VENDOR #	NAME	PAID THIS FISCAL YEAR	AMOUNT DUE

GARBAGE FUND			
50	GARBAGE		
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	-165.00
4446	MORING DISPOSAL, INC.	220,657.70	43,124.96
	GARBAGE		42,959.96
CUSTOMER SERVICE CENTER			
51	CUSTOMER SERVICE CENTER		
1289	CITY OF ROCK FALLS UTILITIES	233,414.58	32.02
1472	WARD, MURRAY, PACE & JOHNSON	35,422.70	2,390.70
	CUSTOMER SERVICE CENTER		2,422.72
CUSTOMER UTILITY DEPOSITS			
75	CUSTOMER UTILITY DEPOSITS		
T0005386	TYREE COLLINS		70.79
T0005387	MELISSA COULTER		35.58
T0005388	TAYA JONES		79.36
T0005389	WINDY BRUINS		138.15
	CUSTOMER UTILITY DEPOSITS		323.88
	TOTAL ALL DEPARTMENTS		724,562.34

CITY OF ROCK FALLS

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 6, ARTICLE III, DIVISION 4
OF THE ROCK FALLS MUNICIPAL CODE
RELATING TO MAINTENANCE AND REPAIR TO THE EXTERIOR OF BUILDINGS
AND STRUCTURES LOCATED WITHIN THE CITY'S UPTOWN BUSINESS AREA**

ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF ROCK FALLS

THIS _____ DAY OF _____, 2020

Published in pamphlet form by authority of the City Council of the City of Rock Falls, Illinois,
this _____ day of _____, 2020.

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 6, ARTICLE III, DIVISION 4
OF THE ROCK FALLS MUNICIPAL CODE
RELATING TO MAINTENANCE AND REPAIR TO THE EXTERIOR OF BUILDINGS
AND STRUCTURES LOCATED WITHIN THE CITY'S UPTOWN BUSINESS AREA**

WHEREAS, the City of Rock Falls (the "City") has previously established by ordinance an Uptown Business Design Guide, the purpose of which is to promote the public health, safety and welfare by aiding the City in the planning, design and re-design of the City's uptown business area; and

WHEREAS, the provisions of the Uptown Business Design Guide are designed to ensure that all land use and development activity within the City's uptown business area comply with the standards contained therein; and

WHEREAS, the Mayor and City Council (collectively, the "Corporate Authorities") of the City are of the opinion that appropriate enforcement mechanisms be in place to ensure compliance with the provisions of the City's Uptown Business Design Guide; and

WHEREAS, in order to preserve the appeal of the City's uptown business area, the Corporate Authorities find it necessary to require that the exterior of buildings and structures located within the uptown business area be maintained in a safe and appealing manner and that construction and/or repair of said buildings and structures be made in a prompt manner; and

WHEREAS, the Corporate Authorities hereby further deem it in the best interests of the City and its residents to provide for certain penalties for the failure of any person owning property within the City's uptown business area to comply with the foregoing provisions of the Uptown Business Design Guide, all as more specifically set forth herein.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Rock Falls, Whiteside County, Illinois as follows:

SECTION 1: The recitals contained in the preambles to this Ordinance are true and correct and are hereby incorporated into this Section 1 as if more fully set forth herein.

SECTION 2: Chapter 6, Article III, Section 6-155 as amended, is hereby further amended by the addition of a new subsection (c) to read as follows:

"Sec. 6-155. – Compliance; amendment of an approved BSO plan.

...

- (c) The exterior of any building or structure shall be maintained in a safe and appealing manner and in full compliance with the provisions outlined in

this division at all times. Upon the occurrence of any damage, significant deterioration or modification to the exterior of any building or structure necessitating repair or replacement to the same, the owner of said building or structure shall, within sixty (60) days following the occurrence, apply for a building permit with the city for such repair or replacement. Following the issuance of a building permit, the owner of such building or structure shall proceed to promptly complete the repairs or replacement to the exterior of the building or structure, but in no event shall the same exceed one hundred and twenty (120) days from the date of issuance. All repairs or replacement to the exterior of the building or structure shall conform to the applicable provisions of the city's building and electrical codes then in force and effect. All non-conforming buildings or structures located within the city uptown business area shall have until January 1, 2021 to comply with the provisions of this subsection."

SECTION 3: Chapter 6, Article III, as amended, is hereby further amended by the addition of a new Section 6-156 entitled "Penalties" to read as follows:

"Sec. 6-156. – Penalties.

A violation of any of the provisions of this division shall be punishable as a Class C violation as provided in section 1-41. Each day on which a violation occurs or continues shall be deemed a separate offense under this division."

SECTION 4: In all other respects, Chapter 6, Article III of the Rock Falls Municipal Code shall remain in full force and effect as previously adopted and/or amended.

SECTION 5: The provisions and sections of this Ordinance shall be deemed to be separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

SECTION 6: The City Clerk is directed to publish this Ordinance in pamphlet form.

SECTION 7: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Approved this _____ day of _____, 2020.

Mayor

ATTEST:

City Clerk

AYE

NAY

CITY OF ROCK FALLS

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING TRANSFER OF FUNDS
TO ESCROW ACCOUNT RELATING TO BOND DEFEASANCE
MADE IN CONNECTION WITH FIBERNET ASSET SALE**

ADOPTED BY THE

MAYOR AND CITY COUNCIL

OF THE

CITY OF ROCK FALLS

THIS _____ DAY OF _____, 2020

Published in pamphlet form by authority of the City Council of the City of Rock Falls, this
_____ day of _____, 2020.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING TRANSFER OF FUNDS
TO ESCROW ACCOUNT RELATING TO BOND DEFEASANCE
MADE IN CONNECTION WITH FIBERNET ASSET SALE**

WHEREAS, in 2017, the City of Rock Falls (the “City”) authorized two (2) separate bond issues, said issues being the (i) \$2,120,000 General Obligation Bonds (Alternate Revenue Source), Series 2017A, referred to herein as “2017A Bonds”; and (ii) \$2,665,000 Taxable General Obligation Bonds (Alternate Revenue Source), Series 2017B, referred to herein as the “2017B Bonds”, the 2017A Bonds and 2017B Bonds being collectively referred to as the “Bonds”, to pay for the costs of designing, constructing and operating a broadband internet system for the City; and

WHEREAS, the City has been approached by Surf Air Wireless, LLC, a Delaware limited liability company (“SAW”), proposing the purchase of a portion of the City’s broadband internet system, commonly known as “FiberNet” (all of the foregoing, the “Asset Sale”); and

WHEREAS, the Bonds are still outstanding and have not been paid in full; and

WHEREAS, in connection with the Asset Sale, and upon advice of the City’s bond counsel, a defeasance of the 2017A Bonds must occur and the City’s obligations under the same must be secured with funds placed in an escrow account with the bond registrar and paying agent, Sauk Valley Bank & Trust Company; and

WHEREAS, the amount to be deposited with the registrar and paying agent prior to the Asset Sale to defease the Bonds is the amount of \$2,610,636.57; and

WHEREAS, the City does not have sufficient funds within its General or Fiber/Broadband Funds to satisfy the amount required to be placed in escrow for the bond defeasance; and

WHEREAS, the City’s Sewer Fund and Electric Utility Fund have sufficient reserve accounts not needed for the current operations of the same to fund the escrow deposit; and

WHEREAS, the Mayor and City Council have duly considered the needs of the City relative to the Asset Sale and deem it appropriate and necessary to transfer such surplus funds from the Sewer and Electric Utility Funds for the funding of the escrow deposit; and

WHEREAS, the City finds it in the best interests of the City and its residents to authorize acceptance of the transfer of the sum of \$1,305,318.29 from the Sewer Fund and \$1,305,318.28 from the Electric Utility Fund to the registrar and paying agent as holder of the escrow account, with such amounts to be repaid to the Electric Utility Fund and to the Sewer Fund in installments on an annual basis from proceeds received from the Asset Sale over a period not to exceed ten (10) years, all as more specifically set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the City Council of the City of Rock Falls, as follows:

SECTION 1: The recitals contained in the preambles to this Resolution are true and correct and are hereby incorporated into this Resolution as if more fully set forth herein.

SECTION 2: The City Treasurer is hereby authorized to transfer the total sum of \$2,610,636.57, consisting of \$1,305,318.29 from the Sewer Fund and \$1,305,318.28 from the Electric Utility Fund, to Sauk Valley Bank & Trust Company for placement into escrow to secure payment of the City's obligations under the 2017A Bonds following the bond defeasance.

SECTION 3: The foregoing amounts shall accrue interest at the rate of one percent (1.00%) per annum and shall be repaid to the Sewer and Electric Utility Funds, in equal amounts, from amounts received by the City as installment sale payments and franchise fees generated under the Asset Sale, but provided that the first \$270,000.00 received each year from the Asset Sale shall be dedicated to and used for payment of the annual amounts due on the 2017B Bonds, and any amounts received by the City each year as installment sale payments or franchise fees in excess of \$270,000.00 under the Asset Sale shall be exclusively utilized for repayment to the Sewer and Electric Utility Funds pursuant to this Resolution. Notwithstanding the foregoing, all amounts owed to the Sewer and Electric Utility Funds hereunder shall be repaid in full on or before **ten (10) years** from the date hereof.

SECTION 4: The sums transferred hereunder shall in no manner be deemed to conflict with or supersede the City's adopted policies, which require adequate and sufficient reserves to be held by each enterprise department for continued operations in the event of a revenue shortfall. To ensure the same, the City's Finance Committee is hereby charged with reviewing the financial impact to the Sewer and Electric Utility Funds, if any, resulting from the passage of this Resolution at least once every three (3) years until such amounts as are due and owing to said funds hereunder are repaid in full.

SECTION 5: The City Clerk is hereby authorized to provide a certified copy of this Resolution to any party so requesting.

SECTION 6: All resolutions and parts of resolutions in conflict herewith are, to the extent of such conflict, hereby repealed.

SECTION 7: This Resolution shall be in full force and effect from and after its passage and approval and publication as required by law.

(remainder of page intentionally left blank)

Approved this _____ day of _____, 2020.

Mayor

ATTEST:

City Clerk

AYE

NAY

ORDINANCE providing for the payment of the outstanding General Obligation Bonds (Alternate Revenue Source), Series 2017A, of the City of Rock Falls, Whiteside County, Illinois, and the execution and delivery of an escrow agreement in connection therewith.

* * *

WHEREAS, the City of Rock Falls, Whiteside County, Illinois (the "*City*"), is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, is now operating under the provisions of the Illinois Municipal Code (the "*Municipal Code*"), and all laws amendatory thereof or supplementary thereto, including the Local Government Debt Reform Act, as amended; and

WHEREAS, the City has previously issued and there are currently outstanding General Obligation Bonds (Alternate Revenue Source), Series 2017A, dated April 27, 2017 (the "*Bonds*") and were issued such that the interest on the Bonds is not included in gross income of the owners thereof for federal income tax purposes ("*Tax-Exempt Bonds*"); and

WHEREAS, the Bonds were issued to pay the costs of designing, constructing and operating a broadband internet system for the City (the "*Broadband System*");

WHEREAS, the City has determined that it is in the best interests of the City to lease the Broadband System; and

WHEREAS, given the lease of the Broadband System, in order to maintain the status of the Bonds as Tax-Exempt Bonds, the City must provide for the payment of the Bonds on their earliest possible redemption date; and

WHEREAS, the Council of the City (the "*Council*") has determined that the City has funds on hand and lawfully available in an amount not to exceed \$3,000,000 to so provide for the payment of the outstanding Bonds (the "*Available Funds*"); and

WHEREAS, the Available Funds are sufficient, together with investment earnings thereon, to provide for the payment of all of the principal of and interest on the outstanding Bonds through and including the optional redemption date thereof; and

WHEREAS, the Council hereby finds that it is in the best interests of the City to apply the Available Funds to the payment of the Bonds when due and upon redemption prior to maturity (the "*Defeasance*"); and

WHEREAS, in accordance with their terms, the Bonds may be called for redemption in advance of their respective maturities, and it is necessary and desirable to make such call for the redemption of the Bonds on their earliest possible call date, and provide for the giving of proper notice to the registered owners of the Bonds; and

WHEREAS, in order to properly provide for the payment of the Bonds, it will be necessary to irrevocably deposit the Available Funds in escrow with an escrow agent, the same being Sauk Valley Bank and Trust Company, Sterling, Illinois, or such other bank or trust company authorized to do business in the State of Illinois (the "*Escrow Agent*") as set forth in the agreement between the City and the Escrow Agent establishing said escrow account (the "*Escrow Agreement*"), to pay the principal of and interest on the Bonds when due and upon redemption prior to maturity; and

WHEREAS, it is necessary that the Council authorize the form of Escrow Agreement with the Escrow Agent and direct the execution of the Escrow Agreement by officers of the City:

NOW, THEREFORE, Be It Ordained by the Council of the City of Rock Falls, Whiteside County, Illinois, as follows:

Section 1. Incorporation of Preambles. The Council hereby finds that all of the recitals contained in the preambles to this Ordinance are full, true and correct and does incorporate them into this Ordinance by this reference.

Section 2. Form and Authorization of Agreement. The Available Funds shall be deposited into an escrow account (the "*Escrow Account*") held by the Escrow Agent pursuant to the Escrow Agreement. The Escrow Agreement shall be in substantially the form attached hereto as *Exhibit A* with such changes therein as shall be approved by the officers of the City executing the Escrow Agreement, such execution to constitute evidence of the approval of such changes, for the purpose of paying the Bonds. The Council approves the form, terms and provisions of the Escrow Agreement and authorizes the Mayor and the City Clerk to execute, attest and deliver the Escrow Agreement in the name and on behalf of the City. Amounts in the escrow will be held in cash or be used to purchase non-callable direct obligations of or non-callable obligations guaranteed by the full faith and credit of the United States of America as to principal and interest or U.S. Treasury Securities—State and Local Government Series (the "*Government Securities*"), in each case sufficient to provide for the Defeasance. The Escrow Agent and Robert W. Baird & Co. Incorporated are hereby authorized to act as agent for the City in the purchase of the Government Securities described in the previous sentence. The sufficiency of the Government Securities and the interest earned thereon to provide for the Defeasance shall be determined by a verification agent to be selected by the Mayor.

Section 3. Transfer and Deposit of Available Funds. The Available Funds are hereby appropriated for the Defeasance and are hereby ordered deposited into the Escrow Account pursuant to the Escrow Agreement to provide for the payment of all principal of and interest on the Bonds when due and upon redemption prior to maturity. The City Treasurer is hereby authorized and directed forthwith to transfer the Available Funds in the amount necessary to effectuate the Defeasance to the Escrow Agent to be deposited into the Escrow Account. The amount of such Available Funds which are necessary to be deposited into the Escrow Account shall be conclusively established under the terms of the Escrow Agreement.

Section 4. Call of the Bonds. In accordance with the redemption provisions of the ordinance authorizing the Bonds, the City by the Council does hereby make provision for the payment of and does hereby call the Bonds for redemption on April 1, 2027, the same being the earliest possible call date for the Bonds.

Section 5. Abatement of Tax. The Mayor, the City Clerk and the City Treasurer be and the same are hereby directed to prepare and file with the County Clerk a Certificate of Reduction of Taxes Heretofore Levied for the Payment of Bonds showing the Bonds being paid and directing the abatement of the taxes heretofore levied to pay the Bonds.

Section 6. Severability. If any section, paragraph, clause or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 7. Superseder and Effective Date. All ordinances, resolutions, and orders, or parts thereof, in conflict herewith, are to the extent of such conflict hereby superseded, and this Ordinance shall be in full force and effect immediately upon its passage and approval.

ADOPTED: October 20, 2020

AYES: _____

NAYS: _____

ABSENT: _____

Approved: October 20, 2020

Mayor, City of Rock Falls,
Whiteside County, Illinois

ATTEST:

City Clerk, City of Rock Falls,
Whiteside County, Illinois

Recorded in the City Records on October 20, 2020.

EXHIBIT A
FORM OF ESCROW AGREEMENT

ESCROW AGREEMENT

This Escrow Agreement (this “*Agreement*”), dated as of the date witnessed hereinbelow, by and between the City of Rock Falls, Whiteside County, Illinois (the “*City*”), and Sauk Valley Bank & Trust Company, a banking corporation having trust powers, organized and operating under the laws of the United States of America, located in Sterling, Illinois (the “*Escrow Agent*”), in consideration of the mutual promises and agreements herein set forth:

WITNESSETH:

ARTICLE I

DEFINITIONS

The following words and terms used in this Agreement shall have the following meanings unless the context or use clearly indicates another or different meaning:

Section 1.01. “*Council*” means the City Council of the City.

Section 1.02. “*Code*” means Section 148 of the Internal Revenue Code of 1986, and all lawful regulations promulgated thereunder.

Section 1.03. “*Defeased Bonds*” means the outstanding General Obligation Bonds (Alternate Revenue Source), Series 2017A, dated of April 27, 2017, due on October 1 of the years and in the amounts and bearing interest as follows:

YEAR OF MATURITY	PRINCIPAL AMOUNT	RATE OF INTEREST
2032	\$520,000	3.250%
2033	300,000	4.000%
2034	305,000	4.000%
2035	315,000	4.000%
2036	325,000	3.500%
2037	340,000	3.625%

Section 1.04. “*Escrow Account*” means the trust account established under this Agreement by the deposit of the Government Securities and the hereinafter defined Beginning Cash.

Section 1.05. “*Government Securities*” means the non-callable direct obligations of or non-callable obligations guaranteed by the full faith and credit of the United States of America as to principal and interest deposited hereunder as more particularly described in *Exhibit A* to this Agreement and also including any direct obligations purchased pursuant to Section 3.02.

Section 1.06. “*Paying Agent*” means Sauk Valley Bank and Trust Company, Sterling, Illinois, as bond registrar and paying agent for the Defeased Bonds.

Section 1.07. “*Ordinance*” means the ordinance adopted on the 20th day of October 2020, by the Council entitled:

ORDINANCE providing for the payment of the outstanding General Obligation Bonds (Alternate Revenue Source), Series 2017A, of the City of Rock Falls, Whiteside County, Illinois, and the execution and delivery of an escrow agreement in connection therewith.

Section 1.08. “*Treasurer*” means the City Treasurer.

ARTICLE II

CREATION OF ESCROW

Section 2.01. The City by the Ordinance has authorized the provision for payment of the Defeased Bonds by the deposit on demand and to purchase on behalf of the City the Government

Securities. Such deposit and securities will provide all moneys necessary to pay the principal of and interest on the Defeased Bonds when due and upon redemption prior to maturity.

Section 2.02. The City deposits \$_____ from funds on hand and legally available for the purchase of the Government Securities and the funding of a beginning cash escrow deposit on demand in the amount of \$_____ (the "*Beginning Deposit*"). The Beginning Deposit and the Government Securities are held in an irrevocable trust fund account for the City to the benefit of the holders of the Defeased Bonds to pay the principal of and interest on the Defeased Bonds when due and upon redemption prior to maturity.

Section 2.03. The Escrow Agent and the City have each received the report of _____, attached hereto as *Exhibit B* (the "*Verification Report*"), that the principal of and income and profit to be received from the Government Securities, when paid at maturity, and the cash held in accordance with Section 2.02 hereof, will be sufficient, at all times pending the final payment of the Defeased Bonds, to pay all interest on and all principal of the Defeased Bonds when due and upon redemption prior to maturity as evidenced by the Verification Report.

ARTICLE III

COVENANTS OF ESCROW AGENT

The Escrow Agent covenants and agrees with the City as follows:

Section 3.01. The Escrow Agent will hold the Government Securities and all interest income or profit derived therefrom and all uninvested cash in an irrevocable segregated and separate trust fund account for the sole and exclusive benefit of the holders of the Defeased Bonds until final payment thereof.

Section 3.02. The Beginning Deposit shall not be invested by the Escrow Agent. Otherwise, the Escrow Agent will reinvest all available uninvested balances (except for an amount

under \$1,000 or as explicitly provided in this Section) in the Escrow Account on deposit from time to time, whenever said balances exceed \$1,000 unless said balance is needed to pay principal of or interest on the Defeased Bonds within 14 days, and acknowledges that the schedule of amounts available for reinvestment appears in the cash flow tables in the Verification Report and in *Exhibit B*. Investments so made shall be in direct obligations of the United States of America and shall be scheduled to mature on or prior to the interest payment date on the Defeased Bonds on which such proceeds will be needed to pay the principal of or interest on the Defeased Bonds. Such investments shall, to the extent possible, be in zero-yield obligations issued directly by the Bureau of Fiscal Service of the United States Treasury (currently designated “*U.S. Treasury Securities—State and Local Government Series Certificates of Indebtedness, Notes or Bonds*”) (“*SLGS*”). Such investments shall be made only to the extent permitted by, and shall be made in accordance with, the applicable statutes, rules and regulations governing such investments issued by the Bureau of Fiscal Service. The Escrow Agent and the City expressly recognize that under current regulations all *SLGS* must be subscribed for not less than 5 days (7 days for amounts of \$10,000,000 or more) nor more than 60 days prior to date of issuance.

Exhibit C contains a list of scheduled reinvestments. The Escrow Agent is instructed to subscribe for and take delivery of the Government Securities described in *Exhibit C*.

If the Department of the Treasury (or the Bureau of Fiscal Service) of the United States suspends the sale of *SLGS* causing the Escrow Agent to be unable to purchase *SLGS*, then the Escrow Agent will take the following actions. On the date it would have purchased *SLGS* had it been able to do so, the Escrow Agent will purchase direct obligations of the United States (the “*Alternate Investment*”) maturing no more than 90 days after the date of purchase and no later than the scheduled maturity date of such *SLGS* as shown on *Exhibit C*. The purchase price of the *Alternate Investment* shall be as close as possible but not more than to the principal amount of the

SLGS that would have been purchased on such date if they had been available for purchase and also not more than the total of all principal and interest to be received on such investment. The maturity date of the Alternate Investment shall be the latest possible date that (i) is not more than 90 days after the purchase date and (ii) is not after the scheduled maturity date for the SLGS that would have been purchased if available as shown on *Exhibit C*. The Escrow Agent will purchase each Alternate Investment in the customary manner for such investments (in the secondary market or in a Treasury auction) at a price no higher than the fair market value of the Alternate Investment and will maintain records demonstrating compliance with this requirement. If the Escrow Agent is unable to purchase any investment satisfying all of these requirements, then the Escrow Agent will leave the balance uninvested and shall notify the City that it has been unable to purchase such an Alternate Investment, providing the reason for such inability to the City. On the maturity of each Alternate Investment, the Escrow Agent shall pay the difference between the total of the receipts (principal and interest) on the Alternate Investment and the purchase price of the Alternate Investment to the City with a notice to the City that such amount may need to be paid to the Internal Revenue Service pursuant to Rev. Proc. 95-47 or successor provisions including any finalized version of Prop. Treas. Reg. Section 1.148-5(c). If the Alternate Investment matures more than 14 days prior to the next succeeding interest payment date on the Defeased Bonds on which such proceeds will be needed to pay principal of or interest on the Defeased Bonds, the Escrow Agent shall treat such amounts as an uninvested balance available for reinvestment and shall take all reasonable steps to invest such amounts in SLGS (or additional Alternate Investments as provided in this Section).

The Escrow Agent shall hold balances not so invested in the Escrow Account on demand and in trust for the purposes hereof and shall secure same in accordance with applicable Illinois law for the securing of public funds.

Section 3.03. The Escrow Agent will take no action in the investment or securing of the proceeds of the Government Securities which would cause the Defeased Bonds to be classified as “arbitrage bonds” under the Code, *provided*, it shall be under no duty to affirmatively inquire whether the Government Securities as deposited are properly invested under the Code; and, *provided, further*, it may rely on all specific directions in this Agreement in the investment or reinvestment of balances held hereunder.

Section 3.04. The Escrow Agent will promptly collect the principal, interest or profit from the Government Securities and promptly apply the same as necessary to the payment of principal and interest on the Defeased Bonds when due and upon redemption prior to maturity as herein provided.

Section 3.05. The Escrow Agent will remit to the Paying Agent, in good funds on or before each principal or interest payment or redemption date on the Defeased Bonds, moneys sufficient to pay such principal, interest and redemption price as will meet the requirements for the retirement of the Defeased Bonds, and such remittances shall fully release and discharge the Escrow Agent from any further duty or obligation thereto under this Agreement.

Section 3.06. The Escrow Agent will make no payment of fees, charges or expenses due or to become due, of the Paying Agent or the bond registrar and paying agent on the Defeased Bonds, and the City either paid such fees, charges and expenses in advance as set forth in Section 3.07 hereof or covenants to pay the same as they become due.

Section 3.07. The charges, fees and expenses of the Escrow Agent (other than any charges, fees and expenses incurred pursuant to Section 3.08 hereof) have been paid in advance, and all charges, fees or expenses of the Escrow Agent in carrying out any of the duties, terms or provisions of this Agreement shall be paid solely therefrom.

Section 3.08. The City has called the Defeased Bonds for redemption and payment prior to maturity on April 1, 2027. As Paying Agent for the Defeased Bonds, the Escrow Agent will provide for and give timely notice of the call for redemption of the Defeased Bonds. The form and time of the giving of such notice regarding the Defeased Bonds shall be as specified in the ordinance authorizing the issuance of the Defeased Bonds. The City shall reimburse the Escrow Agent for any actual out of pocket expenses incurred in the giving of such notice, but the failure of the City to make such payment shall not in any respect whatsoever relieve the Escrow Agent from carrying out any of the duties, terms or provisions of this Agreement.

The Escrow Agent shall give notice of the call of the Defeased Bonds, on or before the date the notice of such redemption is given to the holders of the Defeased Bonds, to the Municipal Securities Rulemaking Board (the “MSRB”) through its Electronic Municipal Market Access system for municipal securities disclosure or through any other electronic format or system prescribed by the MSRB for purposes of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended. Information with respect to procedures for submitting notice can be found at <https://msrb.org>.

Section 3.09. The Escrow Agent may in good faith buy, sell or hold and deal in any of the Defeased Bonds.

Section 3.10. The Escrow Agent will submit to the Treasurer a statement within forty-five (45) days after April 1 and October 1 of each calendar year, commencing November 1, 2020, itemizing all moneys received by it and all payments made by it under the provisions of this Agreement during the preceding six (6) month period (or, for the first period, from the date hereof to November 1, 2020), and also listing the Government Securities on deposit therewith on the date of said report, including all moneys held by it received as interest on or profit from the collection of the Government Securities.

Section 3.11. If at any time it shall appear to the Escrow Agent that the available proceeds of the Government Securities and deposits on demand in the Escrow Account will not be sufficient to make any payment due to the holders of any of the Defeased Bonds, the Escrow Agent shall notify the Mayor, the City Administrator and the City Treasurer, not less than five (5) days prior to such date, and the City agrees that it will from any funds legally available for such purpose make up the anticipated deficit so that no default in the making of any such payment will occur.

ARTICLE IV

COVENANTS OF CITY

The City covenants and agrees with the Escrow Agent as follows:

Section 4.01. The Escrow Agent shall have no responsibility or liability whatsoever for (a) any of the recitals of the City herein, (b) the performance of or compliance with any covenant, condition, term or provision of the Ordinance, and (c) any undertaking or statement of the City hereunder or under the Ordinance.

Section 4.02. All payments to be made by, and all acts and duties required to be done by, the Escrow Agent under the terms and provisions of this Agreement, shall be made and done by the Escrow Agent without any further direction or authority of the City or the Treasurer.

Section 4.03. The City will take any and all action necessary to ensure that adequate provision is made for the payment of the Defeased Bonds and that the Defeased Bonds are not classified as “arbitrage bonds” under the Code.

ARTICLE V

AMENDMENTS, REINVESTMENT OF FUNDS, IRREVOCABILITY OF AGREEMENT

Section 5.01. Except as provided in Section 5.04 hereof, all of the rights, powers, duties and obligations of the Escrow Agent hereunder shall be irrevocable and shall not be subject to

amendment by the Escrow Agent and shall be binding on any successor to the Escrow Agent during the term of this Agreement.

Section 5.02. Except as provided in Section 5.04 hereof, all of the rights, powers, duties and obligations of the City hereunder shall be irrevocable and shall not be subject to amendment by the City and shall be binding on any successor to the officials now comprising the Council during the term of this Agreement.

Section 5.03. Except as provided in Section 5.04 hereof, all of the rights, powers, duties and obligations of the Treasurer hereunder shall be irrevocable and shall not be subject to amendment by the Treasurer and shall be binding on any successor to said official now in office during the term of this Agreement.

Section 5.04. This Section 5.04 shall not apply to the Exhibits hereto which may be amended or supplemented in accordance with the foregoing provisions of this Agreement. Otherwise, this Agreement may be amended or supplemented, and the Government Securities or any portion thereof may be sold, redeemed, invested or reinvested, in any manner provided (any such amendment, supplement, or direction to sell, redeem, invest or reinvest to be referred to as a "*Subsequent Action*"), upon submission to the Escrow Agent of each of the following:

(1) Certified copy of proceedings of the Council authorizing the Subsequent Action and copy of the document effecting the Subsequent Action signed by duly designated officers of the City.

(2) An opinion of nationally recognized bond counsel or tax counsel nationally recognized as having an expertise in the area of tax-exempt municipal bonds that the Subsequent Action has been duly authorized by the Council and will not adversely affect the tax-exempt status of the interest on the Defeased Bonds nor violate the covenants of the City not to cause the Defeased Bonds to become "arbitrage bonds" under the Code, and

that the Subsequent Action does not materially adversely affect the legal rights of the holders of the Defeased Bonds.

(3) An opinion of a firm of nationally recognized independent certified public accountants that the amounts (which will consist of cash or deposits on demand held in trust or receipts from non-callable direct obligations of or non-callable obligations guaranteed by the full faith and credit of the United States of America, all of which shall be held hereunder) available or to be available for payment of the Defeased Bonds will remain sufficient to pay when due all principal and interest on the Defeased Bonds after the taking of the Subsequent Action.

ARTICLE VI

MERGER, CONSOLIDATION OR RESIGNATION OF ESCROW AGENT

Any banking association or corporation into which the Escrow Agent may be merged, converted or with which the Escrow Agent may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Escrow Agent shall be a party, or any banking association or corporation to which all or substantially all of the corporate trust business of the Escrow Agent shall be transferred, shall succeed to all the Escrow Agent's rights, obligations and immunities hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, anything herein to the contrary notwithstanding. The Escrow Agent may at any time resign as Escrow Agent under this Agreement by giving 30 days' written notice to the City, and such resignation shall take effect upon the appointment of a successor Escrow Agent by the City. The City may select as successor Escrow Agent any financial institution with capital, surplus and undivided profits of at least \$25,000,000 and having a corporate trust office within the State of Illinois, and which is authorized to maintain trust accounts for municipal corporations in Illinois under applicable law. Further, if no such successor Escrow

Agent has been designated within 60 days after the City's receipt of the written notice of resignation, the resigning Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor Escrow Agent.

ARTICLE VII

NOTICES TO THE CITY, THE TREASURER AND THE ESCROW AGENT

Section 7.01. All notices and communications to the City shall be addressed in writing to: City Administrator, City of Rock Falls, 603 West 10th Street, Rock Falls, Illinois 61071.

Section 7.02. All notices and communications to the Escrow Agent shall be addressed in writing to: Sauk Valley Bank & Trust Company, Corporate Trust Department, 201 West 3rd Street, Sterling, Illinois 61081.

ARTICLE VIII

TERMINATION OF AGREEMENT

That, upon final disbursement of funds sufficient to pay the principal and interest of the Defeased Bonds as hereinabove provided for, the Escrow Agent will transfer any balance remaining in the Escrow Account to the Treasurer with due notice thereof mailed to the Council, and thereupon this Agreement shall terminate.

ARTICLE IX

EXECUTION IN COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, The City of Rock Falls, Whiteside County, Illinois, has caused this Agreement to be signed in its name by its Mayor and to be attested by its City Clerk under its seal hereunto affixed; and Sauk Valley Bank & Trust Company, Sterling, Illinois, not individually, but in the capacity as hereinabove described, has caused this Agreement to be signed in its corporate name by one of its officers and attested by one of its officers under its corporate seal hereunto affixed, all as of the ___ day of _____, 2020.

THE CITY OF ROCK FALLS, WHITESIDE COUNTY,
ILLINOIS

By _____

Mayor

Attest:

City Clerk

[SEAL]

SAUK VALLEY BANK & TRUST COMPANY,
Sterling, Illinois

By _____

Its _____

Attest:

Its _____

[BANK SEAL]

This Escrow Agreement received and acknowledged by me this ____ day of _____,
2020.

City Treasurer

EXHIBIT A

GOVERNMENT SECURITIES

EXHIBIT B

VERIFICATION REPORT

EXHIBIT C

SCHEDULED REINVESTMENTS

SUBSCRIBE BY	PURCHASE DATE	MATURITY DATE	PAR AMOUNT	TYPE	RATE
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CITY OF ROCK FALLS

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING DISPOSAL OF SURPLUS PROPERTY
AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT
WITH SURF AIR WIRELESS, LLC FOR THE SAME**

ADOPTED BY THE

CITY COUNCIL

OF THE

CITY OF ROCK FALLS

THIS 20TH DAY OF OCTOBER, 2020

Published in pamphlet form by authority of the City Council of the City of Rock Falls, this 20th day of October, 2020.

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING DISPOSAL OF SURPLUS PROPERTY
AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT
WITH SURF AIR WIRELESS, LLC FOR THE SAME**

WHEREAS, the City of Rock Falls (the “City”) is the owner of that certain fiber-optic network and related equipment, commonly known as “FiberNet”, which is operated for the purpose of providing high-speed internet services to the residents and businesses of the City (all of the foregoing, the “FiberNet System”); and

WHEREAS, the Mayor and City Council of the City (collectively, the “Corporate Authorities”) have reviewed the needs of the City with reference to the FiberNet System, have made a careful study of said needs and have determined and concluded that the FiberNet System is no longer useful or necessary to the function of the City and is hereby declared to be surplus personal property of the City; and

WHEREAS, pursuant to Section 11-76-4 of the Illinois Municipal Code (the “Code”), the corporate authorities of a municipality may by ordinance authorize the sale or disposal of surplus personal property owned by the municipality in such manner as they may designate, with or without advertising for the same; and

WHEREAS, Surf Air Wireless, LLC, a Delaware limited liability company (“Surf Air”), has approached the City and has indicated its desire to lease the FiberNet System for a period of ten (10) years, with an option to purchase the FiberNet System during the term, and to assume the City’s obligations with respect to the same; and

WHEREAS, in connection with said lease, Surf Air and the City have negotiated and desire to enter into an Fiber Optic Infrastructure and Equipment Lease (the “Agreement”), said Agreement being attached hereto and incorporated herein as Exhibit A; and

WHEREAS, pursuant to the Agreement, Surf Air has, among other things, offered to pay rent to the City in certain amounts specified therein, with an option to purchase the FiberNet System during the term, including such further and additional consideration as is set forth in the Agreement; and

WHEREAS, the Corporate Authorities find it in the best interests of the City that it enter into the Agreement with Surf Air, all as more specifically set forth herein.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Rock Falls, Whiteside County, Illinois as follows:

SECTION 1: The preambles to this Ordinance are true and correct and are hereby incorporated into this Section 1 as if more fully set forth herein.

SECTION 2: The Corporate Authorities of the City of Rock Falls hereby declare and find that the FiberNet System is no longer necessary or useful to, or for the best interests of the City, and further authorize its disposal in accordance with this Ordinance.

SECTION 3: The Agreement and lease of the FiberNet System to Surf Air, with an option to purchase during the term pursuant to said Agreement, is approved. The Mayor is hereby authorized and directed to sign, and the City Clerk to attest, the Agreement on behalf of the City. The Mayor is further authorized to sign any revised version of the Agreement that is recommended and approved by the City Attorney, so long as such revisions do not decrease the rent, option price or other consideration to be received by the City therein.

SECTION 4: The Mayor and City Clerk are further authorized to execute any supplemental documents, exhibits or the like as may be necessary or needful to consummate the Agreement pursuant to this Ordinance.

SECTION 5: The City Council finds that the customary practice of requiring a first and second reading of ordinances is not applicable or necessary in the case of this Ordinance, and a first reading preliminary to adoption hereof is hereby waived, and this Ordinance shall become effective upon its passage.

SECTION 6: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 7: All ordinances, Ordinances, motions, or parts thereof in conflict herewith and the same are hereby repealed.

SECTION 8: This Ordinance shall be in full force and effect upon its adoption, approval, and publication as required by law.

Approved this 20th day of October, 2020.

Mayor

ATTEST:

City Clerk

AYE

NAY

EXHIBIT A

(attach Fiber Optic Infrastructure and Equipment Lease)

FIBER OPTIC INFRASTRUCTURE AND EQUIPMENT LEASE

THIS FIBER OPTIC INFRASTRUCTURE AND EQUIPMENT LEASE (this "Agreement") is made and entered as of October 30, 2020 (the "Effective Date") by and between the City of Rock Falls, an Illinois municipal corporation, ("Lessor") and Surf Air Wireless, LLC, a Delaware limited liability company ("Lessee"). Lessor and Lessee are sometimes collectively referred to herein as the "Parties".

RECITALS

WHEREAS, Lessor is the owner of a fiber optic system consisting of approximately 33.9 miles of fiber optic cable and appurtenant equipment and facilities utilized in relation thereto, located within and surrounding the corporate limits of the City of Rock Falls, Illinois, as generally depicted on Exhibit A, attached hereto and incorporated herein ("Lessor's Retained System"), which fiber optic system was constructed to accommodate the function and needs of Lessor's Electric Department and Lessor's other municipal utilities and departments; and

WHEREAS, in connection with Lessor's Retained System, Lessor undertook the construction of approximately 12.3 miles of additional fiber optic cable and facilities, being generally depicted on Exhibit B, attached hereto and incorporated herein (the "Fiber Optic Cable and Facilities"), and the purchase of additional equipment, inventory and supplies in relation thereto, as set forth on Exhibit C, attached hereto and incorporated herein (the "Equipment and Inventory"), for the purpose of offering high-speed internet service to the residents and businesses of the City of Rock Falls, Illinois, such service being commonly referred to as "FiberNet" (the "Business", and together with the Fiber Optic Cable and Facilities and the Equipment and Inventory, the "FiberNet System"); and

WHEREAS, Lessee is in the business of owning and operating fiber optic infrastructure and related systems for the commercial purpose of providing high-speed internet service to its customers; and

WHEREAS, Lessee desires to lease the FiberNet System from Lessor, and Lessor desires to lease the FiberNet System to Lessee, in order to permit Lessee's operation of FiberNet so as to continue to provide high-speed internet service to the residents and businesses of the City of Rock Falls, Illinois and surrounding areas, all as more specifically set forth herein.

NOW, THEREFORE, in consideration of the terms, conditions and obligations set forth herein, the Parties agree as follows:

ARTICLE I GRANT OF LEASE

1.1 Lease. Subject to the provisions of this Agreement, Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the FiberNet System for the duration of the Term (as such term is defined herein).

1.2 Term. The term of this Agreement shall be for a period of ten (10) years commencing on November 1, 2020 (the "Commencement Date") and ending on October 31, 2030, unless earlier terminated in accordance with the provisions herein (all of the foregoing, the "Term").

ARTICLE II RENT; OPTION TO PURCHASE

2.1 Rent. In consideration of the lease of the FiberNet System to Lessee pursuant to this Agreement, Lessee agrees to pay to Lessor the following:

- (a) an initial payment of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) upon the execution of this Agreement (the "Initial Payment");
- (b) commencing on December 1, 2020 (the "Rent Commencement Date") until October 31, 2025, the sum of Twenty-Three Thousand One Hundred Dollars (\$23,100.00) per month (the "First-Half Rent"); and
- (c) from November 1, 2025 until the expiration of the Term, the sum of Nineteen Thousand One Hundred Seven and 12/100ths Dollars (\$19,107.12) per month (the "Second-Half Rent" and collectively with the First-Half Rent, the "Rent").

Rent shall be paid to Lessor on or before the 1st day of each month. Any payment of Rent or any other amounts due hereunder which are not paid when the same is due shall bear interest at the rate of two percent (2%) per month or the highest rate permitted by law, whichever is less.

2.2 Option to Purchase. Provided that Lessee is not in default in the performance of any of its obligations hereunder or in any of the Related Agreements (as such term is hereinafter defined), Lessee shall have the option to purchase the FiberNet System (the "Option") at any time following the 1st day of January, 2022 (the "Option Commencement Date"). Such Option shall be exercised by Lessee giving Lessor at least sixty (60) but not more than one hundred and twenty (120) days written notice thereof following the Option Commencement Date, but in no event shall said Option be exercised less than one hundred and twenty (120) days prior to the expiration of the Term. The Option shall be contingent upon Lessee's satisfaction of all of its obligations under this Agreement, including but not limited to the payment of Rent in full to date of exercise as specified herein. The purchase price for the FiberNet System following exercise of the Option shall be as set forth on Schedule 2.2 (the "Option Price"). In addition to the Option Price, Lessee shall be responsible for the payment of any and all applicable sales, use, occupation, and income taxes typically attributed to the purchaser with respect to the sale of the FiberNet System. The closing on the sale of the FiberNet System shall occur within thirty (30) days following Lessee's exercise of the Option. At closing and upon payment of the Option Price and any and all such applicable taxes, Lessor shall transfer to Lessee all of Lessor's right, title and interest in and to the FiberNet System pursuant to a bill of sale in substantially the form as Exhibit D, attached hereto and incorporated herein (the "Bill of Sale").

2.3 Place of Payment. All Rent and other payments made pursuant to this Agreement shall be made at the address of Lessor indicated herein or at such other address as shall be designated from time to time by Lessor in writing.

ARTICLE III OWNERSHIP OF IMPROVEMENTS

3.1 Title and Interest in FiberNet System. Lessee agrees that at all times during the Term all ownership rights, title and interest in, to and of the FiberNet System shall at all times be vested exclusively in Lessor.

3.2 Exclusion of Build-Outs. The Parties acknowledge and agree that during the Term, Lessee will undertake the construction, build-out and expansion of the fiber optic infrastructure consisting of the FiberNet System throughout the City of Rock Falls, Illinois. In connection therewith, Lessor agrees that any and all build-outs completed by Lessee (each a "Lessee Constructed Build-Out") shall be and remain the separate property of Lessee. Lessee agrees that, to the extent reasonably feasible, all Lessee Constructed Build-Outs shall be connected to the FiberNet System at a Demarcation Point. As used in this Agreement, a Demarcation Point is the physical point at which the Lessee Constructed Build-Out owned and controlled by Lessee interfaces with the equipment and fiber of the FiberNet System. For purposes of illustration only, a Demarcation Point may be located outside or inside a building at a point-of-presence, which is an access point, location, facility or other location established and maintained by Lessor or Lessee, as the case may be, for the purpose of connecting with an internet service provider or other communicating entity, including but not limited to Lessor or Lessee owned equipment, splice cases or pull boxes.

ARTICLE IV OPERATION OF FIBERNET SYSTEM

4.1 Operation by Lessee. Lessee shall be solely responsible for its configuration and operation of the FiberNet System, inclusive of any Lessee Constructed Build-Out, including the provisioning of all facilities, network equipment, testing equipment and procedures, splicing, maintenance and other matters necessary to utilize the same. Lessee shall conduct all of its operations and utilize the FiberNet System, inclusive of any Lessee Constructed Build-Out, in a manner that does not materially interfere with or impair the FiberNet System or Lessor's Retained System.

4.2 Connection at Demarcation Point. Lessee shall undertake, perform and pay the cost of any and all connections to be performed at the Demarcation Point between the FiberNet System and any Lessee Constructed Build-Out.

4.3 Extensions and Build-Outs. Any physical extension of the FiberNet System, including but not limited to Lessee Constructed Build-Outs, shall be at the sole cost and expense and the responsibility of Lessee, including all operation, maintenance, liability and assumption of risks relating thereto. Lessee shall be solely responsible for obtaining all consents, licenses,

permits, easements and authorizations that may be necessary or required as a result of such extension.

4.4 Compliance with Law. Lessee shall comply with applicable federal, state and local laws in the exercise and performance of its rights and obligations under this Agreement. Lessee shall be responsible for obtaining and maintaining from the appropriate public or private authority any pole attachment agreements, licenses, state, local or right-of-way permits or other authorizations required to enter upon the property where the FiberNet System or any Lessee Constructed Build-Out is located and to otherwise operate and maintain the same.

4.5 Right-of-Way Use Agreement Required. Lessee shall not be permitted to use the FiberNet System or any part thereof, inclusive of any Lessee Constructed Build-Outs constructed in the right-of-way or otherwise, for the purpose of providing high-speed broadband internet services within the City of Rock Falls, Illinois unless and until it has agreed to a right-of-way use agreement with Lessor in substantially the form as attached hereto as Exhibit E (the "Right-of-Way Use Agreement").

ARTICLE V MAINTENANCE, REPAIR AND RELOCATION

5.1 Scope of Maintenance and Repairs. Lessee, at its own cost and expense, shall maintain the FiberNet System in good condition and working order throughout the Term, ordinary wear and tear excepted. All installation, removal, maintenance and repair to the FiberNet System, whether routine or otherwise, shall be performed by Lessee or its agents or contractors at Lessee's sole cost. All work in or around the FiberNet System shall be conducted in a manner reasonably acceptable to Lessor and in accordance with then applicable industry standards so as not to conflict or otherwise adversely affect the FiberNet System or Lessor's Retained System.

5.2 Care of the FiberNet System. Lessee agrees to (i) use the FiberNet System in a careful and prudent manner in the regular course of its business; and (ii) comply with all rules, regulations, laws and ordinances and any and all insurance provisions applicable to Lessee's use, maintenance or possession of the FiberNet System. Lessee is permitted make such modifications or alterations to the FiberNet System as it deems reasonably necessary, provided however, that any and all such modifications and alterations shall belong to and become Lessor's property and be subject to the provisions of this Lease. Notwithstanding the foregoing, no Lessee Constructed Build-Out shall become the property of Lessor unless expressly agreed to by the Parties in writing.

5.3 Relocation. If at any time during the Term any part of the FiberNet System (inclusive of any Lessee Constructed Build-Out) which (i) directly affects Lessor's Retained System; or (ii) otherwise impedes Lessor's ability to construct, remove or maintain its public utilities within the right-of-way and needs to be relocated, for any reason whatsoever, Lessee shall reasonably cooperate with Lessor to accomplish the same. Lessor shall pay the costs of such relocation and will use its best efforts to avoid any material interruptions with Lessee's use of the FiberNet System.

5.4 Lessor's Right to Inspect. Lessor shall have the right, after reasonable notice has been given to Lessee, to inspect the FiberNet System and Lessee's records relating thereto at any reasonable time or times to ensure compliance with this Agreement, including the right to have an accountant of Lessor's selection to review said books and records.

ARTICLE VI TAXES AND ENCUMBRANCES

6.1 Taxes and Fees. Lessee shall be solely responsible to pay, when due, all taxes, special assessments and government fees, including franchise, license and permit fees of any kind with respect to the FiberNet System, excluding taxes imposed relating to the net income of Lessor as a result of this Agreement.

6.2 Encumbrances. Lessee represents and warrants that it shall not interfere with Lessor's ownership and control of the FiberNet System and that it will keep said FiberNet System free and clear from any and all liens, including mechanic's liens, and encumbrances resulting from Lessee's use of the FiberNet System during the Term.

6.3. Lessee's Right to Protest. Lessee shall be solely responsible for opposing, protesting, appealing or challenging any tax or franchise fee imposed or asserted by any entity resulting from Lessee's use of the FiberNet System during the Term.

ARTICLE VII LICENSES AND ASSIGNMENTS

7.1 License of Certain Rights. In connection with the lease of the FiberNet System to Lessee, Lessor agrees to grant to Lessee the exclusive license and right to use for the duration of the Term (collectively, the "Licenses"):

- (a) the intellectual property rights as are listed on Schedule 7.1(a) (the "Intellectual Property Rights"), including two thousand forty-eight (2048) IP addresses and the rights to the name "FiberNet";
- (b) the telephone numbers, domain names and social media accounts, including passwords, which are listed on Schedule 7.1(b); and
- (c) the books and records of the Business as are listed on Schedule 7.1(c).

7.2 Assignment of Contracts and Other Rights. Lessor further agrees to assign to Lessee all of its rights, title and interest in and to certain contracts and other rights and authorizations utilized in the Business with respect to the FiberNet System (collectively, the "Assignments") as follows:

- (a) all of Lessor's rights under each of the contracts listed on Schedule 7.2(a), inclusive of the customer accounts listed on Schedule 10.11 (collectively, the "Contracts");
- (b) the prepaid assets and security deposits (the "Deposits") as are listed on Schedule 7.2(b);
- (c) to the extent assignable, the governmental authorizations, including any applications therefore, which are listed on Schedule 7.2(c);
- (d) the rights or choses in action which are listed on Schedule 7.2(d), including, to the extent assignable, all rights under express or implied warranties relating to the FiberNet System;
- (e) all of the goodwill of the Business.

Lessee shall accept all such Assignments and agrees that it shall perform all obligations of Lessor assigned thereunder in a full and timely manner, and shall be responsible for maintenance of records of and refund of any Deposits transferred and assigned. Lessee shall be authorized to negotiate, modify, renew and cancel all Contracts in any manner Lessee deems commercially reasonable. Notwithstanding the foregoing, Lessee shall not take any action with respect to the Contracts that would otherwise cause a material adverse impact on the continued operation of the FiberNet System in the event that Lessor exercises its rights to repossess, sell or re-let the FiberNet System following the occurrence of an event of default in accordance with Article XV herein.

7.3 Licenses and Assignments in Relation to Option to Purchase. The Parties acknowledge and agree that the Licenses and Assignments are made in consideration of and are contingent upon Lessee's lease of the FiberNet System and Lessee's compliance with the terms and conditions herein, including but not limited to, the payment of Rent. It is agreed that upon the expiration or earlier termination of this Agreement, Lessee's rights to the Licenses shall terminate and Lessee shall, at the option of Lessor in its sole discretion, assign back to Lessor all of its rights, title and interest in and to the Assignments. Notwithstanding the foregoing, in the event that Lessee elects to exercise the Option then Lessor, in addition to the transfer of the FiberNet System to Lessee, shall transfer and assign all of its rights, title and interest in and to the items listed on Schedule 7.1(a), Schedule 7.1(b) and Schedule 7.1(c) to Lessee in accordance with an assignment and assumption agreement, in substantially the form attached hereto as Exhibit F (the "Assignment and Assumption Agreement").

ARTICLE VIII ASSUMPTION OF LIABILITIES

At and as of the Commencement Date, Lessee shall assume and agree to perform and discharge as and when due: (i) all liabilities of Lessor that accrue and are to be performed after the Commencement Date under the Contracts, but only to the extent such liabilities are required to be performed after the Commencement Date; and (ii) all obligations arising in connection with

the Deposits (such items (i) through (ii) are collectively referred to herein as the "Assumed Liabilities"). The Assumed Liabilities shall specifically exclude all other liabilities of Lessor or the Business, including without limitation (a) all liabilities relating to, resulting from, or arising out of, directly or indirectly, the operation or control of the FiberNet System or the Business prior to the Commencement Date, except as otherwise set forth in this Agreement; (b) any liabilities arising out of any default by Lessor of any provision of any Contract prior to the Commencement Date; and (c) all liabilities in respect of indebtedness or capital leases relating to the Business or the FiberNet System except as otherwise specifically set forth herein (collectively, the "Excluded Liabilities").

ARTICLE IX PRORATIONS OF CERTAIN EXPENSES

All expenses (prepaid or unpaid) relating to the Business or the FiberNet System shall be prorated between Lessee and Lessor as of the Commencement Date in accordance with the principle that, except as otherwise provided herein, Lessor shall be responsible for all expenses, costs and liabilities allocable to the period prior to the Commencement Date, and Lessee shall be responsible for all expenses, costs and liabilities allocable to the period on and after the Commencement Date. Such prorations shall include, without limitation, all taxes, utility expenses, rent and other amounts due and payable under the Contracts and similar prepaid items attributable to the Business (collectively, the "Prorated Items"). Lessor will deliver to Lessee on the Commencement Date: (i) a report (the "Statement") showing in detail the prorated items and the credit, if any, due to either Party with respect to the foregoing; and (ii) any documents substantiating the payables, accrued expenses and prorated items. The Initial Payment shall be increased or decreased according to the respective credits and prorations of Lessor and Lessee as shown on the Statement.

ARTICLE X LESSOR REPRESENTATIONS

Lessor hereby makes the representations and warranties to Lessee that are set forth in this Article X. All representations and warranties of Lessor are made subject to and modified by the exceptions noted in the disclosure schedule delivered by Lessor to Lessee concurrently herewith and identified as the "Disclosure Schedule", which shall be arranged with specific reference to the appropriate section (and, if applicable, subsection) of this Agreement. Any matter set forth in any section of the Disclosure Schedule shall be deemed to be referred to and incorporated in all other sections of the Disclosure Schedule to which such matter's application or relevance to a representation or warranty in any other section of this Agreement is reasonably apparent on its face. The inclusion of any item in the Disclosure Schedule is not evidence of the materiality of such item for purposes of this Agreement.

10.1 Organization; Qualification. Lessor is an Illinois municipal corporation duly organized and validly existing under the laws of the State of Illinois and has all necessary power and authority to own and operate the FiberNet System and to carry on the Business as it is now being conducted and to carry out the transactions contemplated by this Agreement.

10.2 Authorization; Execution and Delivery of Agreement. The execution, delivery and performance of this Agreement by Lessor has been duly and validly authorized and approved by all necessary action. This Agreement is, and when so executed and delivered will be, a valid and binding obligation of Lessor, enforceable against it in accordance with its terms, except to the extent that enforcement may be affected by laws relating to bankruptcy, reorganization, insolvency, and similar laws affecting creditors' rights and by the availability of injunctive relief, specific performance, and other equitable remedies.

10.3 Title and Condition of FiberNet System. Lessor has good and marketable title to the FiberNet System, free and clear of all liens, and that upon execution of this Agreement by both Parties, Lessee will have complete and exclusive possession of the FiberNet System as of the Commencement Date. The Parties acknowledge and agree that as of the Effective Date, Lessee has been provided a full and fair opportunity to inspect the FiberNet System. **EXCEPT FOR REPRESENTATIONS OF TITLE MADE BY LESSOR HEREIN, LESSOR LEASES AND LESSEE TAKES THE FIBERNET SYSTEM IN "AS-IS", WHERE-IS" CONDITION AND "WITH ALL FAULTS". LESSOR HAS NOT MADE AND SHALL NOT BE DEEMED TO HAVE MADE, AND HEREBY EXPRESSLY DISCLAIMS, ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.**

10.4 Existing Contracts. Schedule 7.2(a) lists all Contracts in connection with the Business that Lessor is a party to (including any amendments and other modifications thereto) as of the date hereof. Lessor has delivered or made available to Lessee complete copies of all of its written Contracts (including all amendments thereto) and a summary of any oral Contracts requiring aggregate payments by any party more than One Thousand Dollars (\$1,000) or otherwise material to the Business. Except as set forth on the Disclosure Schedule: (i) all the Contracts constitute valid and binding obligations of Lessor and, to Lessor's knowledge, are in full force and effect and legally enforceable in accordance with their terms upon the parties thereto; (ii) Lessor is not in material default of any Contract and to Lessor's knowledge, the other parties thereto are not in material default of any Contract; and (iii) Lessor has not received any notice of cancellation, modification or termination of any of the Contracts, and, to the knowledge of Lessor, no third party has threatened to cancel, modify or terminate any of the Contracts to which Lessor is a party.

10.5 Compliance with Laws, Governmental Authorizations. Except as set forth on the Disclosure Schedule, to Lessor's knowledge, Lessor has complied in all material respects with all laws applicable to it related to the Business, and Lessor has not received any notice of and Lessor has no knowledge of any event or circumstance that is reasonably likely to result in a violation of or a liability under any law about Lessor and/or the Business, including without limitation the National Labor Relations Act, the Employee Retirement Income Security Act of 1974 ("ERISA") and all applicable environmental laws.

10.6 No Conflicts: Consents. Except for the consents, authorizations, approvals, registrations, filings and notices identified on Schedule 10.6 (collectively, the "Required Consents and Notices"), neither the execution and delivery of this Agreement by Lessor nor the performance by Lessor of the transactions contemplated hereby or thereby will result in a default

under, or require the consent, authorization or approval of, or any registrations or filings with or notices to, any person under: (i) to Lessor's knowledge, any applicable law or (ii) to Lessor's knowledge, any Contract or any governmental authorization, except where such default or failure to obtain a consent, authorization or approval, to make a filing or registration or to give notice would be immaterial.

10.7 Claims and Legal Actions. Except as set forth on Schedule 10.7, there is no litigation pending or, to the knowledge of Lessor, threatened, nor any judgment (i) against or relating to Lessor's ownership of the FiberNet System or the operation of the Business; or (ii) that would materially hinder or prohibit the transactions contemplated by this Agreement. To the knowledge of Lessor, there has not occurred any event, nor does any condition exist, that could reasonably be expected to give rise to any litigation against the Lessor relating to the Business. Except as set forth on Schedule 10.7, no litigation has been settled by Lessor that relates to the Business in the last five (5) years.

10.8 Tax Matters. To the knowledge of Lessor, Lessor has paid any and all tax associated with the Business and the FiberNet System. Lessor will timely pay when due all taxes for which it is responsible for periods prior to the Commencement Date, the non-payment of which would result in a lien on the FiberNet System or would result in Lessee becoming liable or responsible therefore. Lessor does not have any liability for the taxes of any person (other than Lessor) under Treasury Regulation Section 1.1502-6 (or any corresponding provision of state, local or non-U.S. Tax law), as a transferee or successor, by contract, or otherwise. Lessor has withheld and paid all taxes required to have been withheld and paid about amounts paid or owing to any employee, independent contractor, creditor, or other third party.

10.9 Environmental Compliance. To the knowledge of Lessor: (i) Lessor has not generated, used, transmuted, treated, stored, released or disposed of, or knowingly permitted anyone else to generate, use, transport, treat, store, release or dispose of any Hazardous Substance at, on or in connection with the ownership or use of the FiberNet System; (ii) Lessor has not been identified as a "potentially responsible party" or as a party liable for remedial action costs in connection with the ownership or use of the FiberNet System; and (iii) there are no claims against Lessor by any person, pending or, to Lessor's knowledge, threatened under environmental laws arising out of Lessor's ownership or use of the FiberNet System or the condition of the FiberNet System. For the purpose of this Section 10.9, "Hazardous Substance" means: (i) petroleum and petroleum products, per- and polyfluoroalkyl substances, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, transformers or other equipment that contain polychlorinated biphenyls, and radon gas; or (ii) any other chemicals, materials or substances defined as or included in the definition of "hazardous materials," "hazardous wastes," "hazardous substances," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic wastes," "toxic pollutants," "contaminants," "pollutants," "infectious wastes," "medical wastes," "radioactive wastes," "sewage sludges" or words of similar import under any applicable law.

10.10 Intellectual Property Matters. All material Intellectual Property Rights are described on Schedule 7.1(a). The Intellectual Property Rights related to the Business that are not owned by Lessor are held by Lessor pursuant to fully paid licenses which are listed on Schedule 10.10. To Lessor's knowledge, no present or former employee, consultant or other

person has any proprietary, commercial, ownership or other interest, direct or indirect, in any of the Intellectual Property Rights owned by Lessor related to the Business. To Lessor's knowledge, none of the Intellectual Property Rights related to the Business infringes any intellectual property or right of any person, nor has Lessor received any written notice alleging any such infringement. To the knowledge of Lessor, no third party is infringing any of the Intellectual Property Rights related to the Business.

10.11 Customer Accounts. Schedule 10.11 sets forth the following numerical breakdown, as of the date indicated thereon, regarding Lessor's customer accounts with respect to the Business: total number; types of accounts; and a summary of the material terms of each service plan under which customers are enrolled and an aggregate number of customers enrolled under such service plan. Lessor and Lessee acknowledge and agree that the customer account information on Schedule 10.11 is (i) based on reports from Lessor's billing system; and (ii) the reports generated from Lessor's billing system and attached on Schedule 10.11 are an accurate and a valid way to represent the customer account information and respective rate plans therein.

10.12 Brokers. Lessor has no obligation to pay any finders, brokers or agents about the transaction contemplated by this Agreement.

10.13 No Other Representations or Warranties. Lessor has not made, and will not be deemed to have made, any representation or warranty other than the specific representations and warranties included in this Article X. Without limiting the generality of the foregoing, and notwithstanding any representations and warranties made by Lessor in this Article X, Lessor makes no representations and warranties with respect to: (i) any projections, estimates or budgets regarding Lessor's or Lessee's future revenues, expenses or future results of operations, whether or not provided or made available to Lessee; (ii) ongoing and future relations with the customers of Lessor or Lessee; or (iii) except as expressly covered by a representation and warranty contained in this Article X, any other information or documents (financial or otherwise) made available to Lessee either as part of Lessee's due diligence investigation or otherwise.

10.14 Knowledge of Inaccuracy. Lessor represents and warrants that it has no actual knowledge of any inaccuracy in any representation or warranty made by Lessee in this Agreement or in connection with the transaction contemplated by this Agreement.

ARTICLE XI LESSEE'S REPRESENTATIONS

11.1 Organization Qualification. Lessee is a limited liability company duly formed and validly existing under the laws of the State of Delaware and is duly registered as a foreign entity qualified to do business in the State of Illinois. Lessee has all necessary limited liability company power and authority to (i) own and operate its properties, (ii) carry on its business as it is now being conducted, and (iii) carry out the transactions contemplated by this Agreement.

11.2 Consents Authorization; Execution and Delivery of Agreement. All necessary consents and approvals have been obtained by Lessee for the execution and delivery of this Agreement. The execution, delivery and performance of this Agreement by Lessee have been duly and validly authorized and approved by all necessary action. This Agreement is, and when

so executed and delivered will be, a valid and binding obligation of Lessee, enforceable against it in accordance with its terms, except to the extent that enforcement may be affected by laws relating to bankruptcy, reorganization, insolvency, and similar laws affecting creditors' rights and by the availability of injunctive relief, specific performance, and other equitable remedies.

11.3 Claims and Legal Actions. There is no litigation pending or, to the knowledge of Lessee, threatened, nor any judgment that would hinder or prohibit the transactions contemplated by this Agreement.

11.4 Brokers. Lessee has no obligation to pay any finders, brokers or agents about the transaction contemplated by this Agreement.

11.5 Independent Investigation. Lessee has conducted its own independent investigation, review and analysis of the Business and the FiberNet System. Lessee acknowledges and agrees that: (i) in making its decision to enter into this Agreement and to consummate the transactions contemplated hereby, Lessee has relied solely upon its own investigation and the express representations and warranties of Lessor set forth in Article X of this Agreement; and (ii) neither Lessor nor any other person has made any representation or warranty as to Lessor, the Business, the FiberNet System or this Agreement, except as expressly set forth in Article X of this Agreement.

11.6 Compliance with Law. Lessee agrees to obtain and maintain, for the duration of the Term, any and all certificates, licenses, permits or approvals required by law that relate to its obligations under this Agreement or its operation of the FiberNet System.

11.7 Knowledge of Inaccuracy. Lessee represents and warrants that it has no actual knowledge of any inaccuracy in any representation or warranty made by Lessor in this Agreement or in connection with the transactions contemplated by this Agreement.

ARTICLE XII LESSOR AND LESSEE COVENANTS

12.1 Confidentiality. Each party covenants that it will treat in confidence (i) all documents, materials and other information which it shall have obtained regarding the other party during the course of the negotiations leading to the consummation of the contemplated transaction (whether obtained before or after the date of this Agreement), the investigation provided for herein and the preparation of this Agreement and other related documents, and (ii) the terms and conditions of this Agreement or any related agreement between the Parties, other than as required in connection with obtaining any necessary consents required to consummate the transactions contemplated herein. After the date hereof, Lessor and Lessee agree to keep confidential the terms and conditions of this Agreement. In addition, Lessor and Lessee may disclose the terms and conditions of this Agreement to their advisors. Notwithstanding the foregoing, the parties acknowledge that Lessor is a governmental entity and as such, is subject to public disclosure laws including but not limited to the Freedom of Information Act (FOIA) and the Open Meetings Act (OMA). It is understood that this Agreement and the approval and consummation of the transactions contemplated herein, or any other document in Lessor's possession, may be subject to disclosure or partial disclosure under FOIA or OMA, and that

Lessor shall not be bound by the confidentiality provisions contained herein to the extent such disclosure is required by law.

12.2 Development of FiberNet System. Lessee covenants and agrees with Lessor that it shall commence and prosecute with due diligence the expansion of the Business and the build out and development of the FiberNet System within the City of Rock Falls in accordance with the following schedule, subject only to delays caused by force majeure: (i) commencement of construction within six (6) months from the execution of this Agreement; (ii) build out of the FiberNet System (inclusive of Lessee Constructed Build-Outs) to at least fifty percent (50%) of the residences within the City of Rock Falls, Illinois within twenty-four (24) months from the execution of this Agreement; and (iii) substantial completion of the build out of the entire FiberNet System (inclusive of Lessee Constructed Build-Outs) within the City of Rock Falls, Illinois within forty-eight (48) months from the execution of this Agreement. Lessee agrees to provide Lessor with quarterly reports of its progress and, at the request of Lessor, will attend its regularly scheduled city council meetings for such period. Notwithstanding the foregoing, the Lessor's city administrator, in his or her reasonable discretion, may grant an extension of time not to exceed six (6) months for the build out of the FiberNet System pursuant to this Section 12.2 following written request by Lessee. Any written request for an extension in excess of said six (6) months shall require the affirmative consent of a majority of the city council.

12.3 Quiet Enjoyment; Exclusivity. Lessor covenants and agrees that Lessee shall have peaceful and quiet possession and enjoyment of the FiberNet System for the Term, so long as Lessee performs and abides by all covenants and agreements herein. Lessee shall have exclusive control over its use of the FiberNet System for the provisioning of services for broadband internet and the like, including, without limitation, sales and marketing, electronics maintenance and monitoring, and billing and collection.

12.4 Interference. Lessee acknowledges and understands that the FiberNet System is located primarily in the public right-of-way and that, from time to time, maintenance, repair services, reconstruction and/or relocation of other utilities within the right-of-way could interfere with Lessee's full and satisfactory use of the FiberNet System. Lessor will not be liable to Lessee for damage caused to the FiberNet System by independent third parties not under contract with Lessor that are engaged in construction or other business operations which damage the FiberNet System. Lessee agrees that Lessor, under no circumstance, will be liable or otherwise responsible to Lessee for any damages, direct or indirect, incidental or consequential, including lost profits, resulting from delay or disruption of the FiberNet System, inclusive of any Lessee Constructed Build-Outs, that may result from the foregoing.

ARTICLE XIII INDEMNIFICATION

13.1 Indemnification by Lessor. Subject to the terms of this Article XIII, Lessor agrees to indemnify, to hold harmless from and against and to pay and reimburse Lessee and its members, officers, directors, and employees (the "Indemnified Lessee Parties") for any liability, action, suit, demand, judgment, cost of investigation and reasonable attorney fees (collectively, "Losses") suffered, sustained, incurred or paid by any Indemnified Lessee Party to the extent

resulting from or arising out of: (i) any breach of a representation or warranty on the part of Lessor under this Agreement; (ii) any breach or non-fulfillment of any covenant on the part of Lessor under this Agreement; (iii) any Excluded Liability; or (iv) any and all taxes that are obligations of Lessor.

13.2 Indemnification by Lessee. Subject to the terms of this Article XIII, Lessee agrees to indemnify, to hold harmless from and against and to pay and reimburse Lessor, its representatives and agents (the "Indemnified Lessor Parties") for any Losses suffered, sustained, incurred or paid by any Indemnified Lessor Party to the extent resulting from or arising out of: (i) any breach of a representation or warranty on the part of Lessee under this Agreement; (ii) any breach or non-fulfillment of any covenant on the part of Lessee under this Agreement; (iii) the Assumed Liabilities; or (iv) any liabilities first maturing and arising from the operation, use, possession or maintenance of the FiberNet System after the Commencement Date, provided that such Losses shall have not been caused by (a) any breach of a representation or warranty on the part of Lessor under this Agreement, (b) any breach or non-fulfillment covenant on the part of Lessor under this Agreement, or (c) any Excluded Liabilities.

13.3 Conditions for Indemnification of Third-Party Claims. The respective obligations and liabilities of Lessor, on the one hand, or Lessee, on the other hand (the "Indemnifying Party"), to the Indemnified Lessee Parties or the Indemnified Lessor Parties as indemnified parties (the "Indemnified Party") under Sections 13.1 or 13.2 with respect to claims resulting from the assertion of liability by third parties shall be subject to the following terms and conditions:

- (a) Within a reasonable period of time after receipt of notice of commencement of any action evidenced by service of process or other legal pleading, or with reasonable promptness after the assertion of any claim by a third party, the Indemnified Party shall give the Indemnifying Party written notice thereof together with a copy of such claim, process or other legal pleading, and the Indemnifying Party shall have the right to undertake the defense thereof by representatives of its own choosing and at its own expense. The Indemnified Party may elect to participate in the defense with counsel of its own choice and at its own expense. In the event the Indemnified Party has a material conflict of interest from that of the Indemnifying Party, then the Indemnifying Party shall bear the expense of counsel for the Indemnified Party.
- (b) If the Indemnifying Party, by the thirtieth (30th) day after receipt of notice of any such claim (or, if earlier, by the tenth (10th) day preceding the day on which an answer or other pleading must be served in order to prevent judgment by default in favor of the person asserting such claim), does not elect to defend against such claim, the Indemnified Party, upon further notice to the Indemnifying Party, will have the right to undertake the defense, compromise or settlement of such claim on behalf of or for the account and risk of the Indemnifying Party and at the Indemnifying Party's expense. Upon assumption by the Indemnifying Party of the defense of

any claim, the Indemnified Party shall have no further right to settle, compromise or defend the claim.

- (c) Anything in this Section 13.3 to the contrary notwithstanding, the Indemnifying Party shall not settle any claim without the consent of the Indemnified Party unless such settlement involves only the payment of money and the claimant provides to the Indemnified Party a release from all liability in respect of such claim. If the settlement of the claim involves more than the payment of money, the Indemnifying Party shall not settle the claim without the prior consent of the Indemnified Party, which consent shall not be unreasonably withheld, conditioned or delayed.

13.4 Payment. The Indemnifying Party shall make all payments pursuant to the indemnification provisions contained in this Article XIII within ten (10) Business Days after delivery of the notice of claim therefore by the Indemnified Party or, if the Indemnifying Party delivers written notice to the Indemnified Party within such 10-day period that it is disputing the Indemnified Party's right to indemnification hereunder with respect to such payments, immediately upon the final determination of the amount of such indemnification obligation.

13.5 Limitations of Indemnification.

- (a) Lessor shall not be liable to the Indemnified Lessee Parties for indemnification hereunder until the aggregate amount of all Losses in respect of indemnification under Section 13.1 exceeds Twenty-Five Thousand Dollars (\$25,000.00) (the "Deductible"). Once Losses meet or exceed the Deductible, Lessor shall be liable for the entire Loss(es) and Lessee shall be indemnified and reimbursed in full. The aggregate amount of all Losses for which Lessor shall be liable pursuant to Section 13.1 shall not exceed One Hundred Sixty-Five Thousand Dollars (\$165,000.00).
- (b) Payments by an Indemnifying Party pursuant to this Article XIII in respect of any Losses shall be limited to the amount of any such Losses that remains after deducting therefrom any insurance proceeds and any indemnity, contribution or other similar payment received or reasonably expected to be received by the Indemnified Party in respect of any such claim, if any. The Indemnified Party shall use its commercially reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses prior to seeking indemnification under this Agreement.
- (c) Payments by an Indemnifying Party pursuant to this Article XIII in respect of any Losses shall be reduced by an amount equal to any tax benefit realized or reasonably expected to be realized as a result of such Losses by the Indemnified Party. The expiration date may be extended in order to calculate the tax benefit associated with a Loss or Losses.

- (d) In no event shall any Indemnifying Party be liable to any Indemnified Party for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement.
- (e) Each Indemnified Party shall take, and cause its affiliates to take, all reasonable steps to mitigate any Losses upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto.

13.6 Exclusive Remedy. The sole recourse and exclusive remedy of the parties hereto against each other arising out of this Agreement or otherwise arising from or relating to this Agreement or the transactions contemplated hereby shall be to assert a claim for indemnification pursuant to this Article XIII, except: (i) in the case of willful or fraudulent breach; (ii) for the right to seek to specifically enforce a duty to consummate the transactions contemplated by this Agreement or any of the covenants or agreements under this Agreement; or (iii) as otherwise specifically provided in this Agreement.

ARTICLE XIV INSURANCE

14.1 Insurance Requirements. Throughout the Term of this Agreement, Lessee, at its own cost and expense, shall maintain insurance for the FiberNet System in such amounts and to protect against such risks as Lessor shall from time to time require. In addition, Lessee shall maintain commercial general liability insurance in the minimum amount of five million dollars (\$5,000,000.00) for bodily injury or death to any one person and five million dollars (\$5,000,000.00) for property damage resulting from any one accident on a per occurrence basis. Such insurance policy or policies shall be maintained with a carrier or carriers acceptable to Lessor. All such insurance shall: (i) name Lessor as an additional insured on a primary, non-contributory basis; (ii) contain a loss payable endorsement in favor of Lessor; (iii) be in a form acceptable to Lessor; and (iv) provide that it cannot be canceled or modified without at least thirty (30) days' prior written notice to Lessor. All such insurance shall provide that Lessor may at its option, but shall not be obligated to, pay any premium not paid by Lessee, and that the coverage with respect to Lessor shall not be forfeited or suspended as a result of any default or breach by Lessee with respect thereto. From time to time as requested by Lessor, Lessee shall deliver to Lessor evidence, satisfactory to Lessor, of the insurance required to be maintained hereunder.

14.2 Workers Compensation Coverage. Lessee shall provide workers' compensation coverage in accordance with applicable law. Lessee shall indemnify and hold harmless Lessor from any workers' compensation claims to which Lessor may become subject during the Term of this Agreement.

**ARTICLE XV
EVENTS OF DEFAULT**

15.1 Default. For purposes of this Agreement, the occurrence of any of the following shall constitute an event of default (each, an “Event of Default”) hereunder:

- (a) the failure of Lessee to pay Rent or any other sum due under this Agreement for a period of thirty (30) days following the date such sum is due;
- (b) Lessee’s failure to perform any of its other obligations or covenants under this Agreement, provided such failure is not cured within thirty (30) days following Lessor’s written notice thereof;
- (c) any affirmative act of insolvency by Lessee including, without limitation, the making of an assignment for the benefit of creditors or the filing by Lessee of any petition under any bankruptcy, insolvency, reorganization, or moratorium law;
- (d) the filing of any involuntary petition against Lessee under any bankruptcy or insolvency law, or the appointment of any trustee or receiver with respect to Lessee or a substantial portion of Lessee’s property, provided such petition or appointment is consented to or acquiesced in by Lessee and has not been dismissed within ninety (90) days; or
- (e) Lessee defaults under any of the provisions of the Right-of-Way Use Agreement or any of the other Related Agreements and fails to cure such default within the applicable cure period therein.

15.2 Remedies Upon Default. Upon the occurrence of any one or more Event of Default, Lessor may, without notice to or demand on Lessee, do any of the following:

- (a) terminate this Agreement and regain possession of the FiberNet System;
- (b) re-lease or sell all or any portion of the FiberNet System, excluding the Lessee Constructed Build-Out unless authority to do so is specifically granted to Lessor by a court of competent jurisdiction, to any person or entity selected by Lessor; or
- (c) pursue any and all other remedies available to Lessor, whether at law or in equity, or as otherwise specifically set forth in this Agreement.

15.3 Cumulative Remedies. All rights and remedies are cumulative, and the exercise of any right or remedy provided to either party hereunder shall be without prejudice to the right to exercise any other right or remedy provided herein, whether by law or in equity.

15.4 Costs and Expenses of Default. Lessee agrees that it shall pay to Lessor all costs and expenses incurred by it in connection with Lessee’s default of any of the provisions of this

Agreement, including, without limitation, reasonable attorneys' fees and other costs incurred by Lessor in regaining possession, re-leasing or selling the FiberNet System as a result of such breach.

ARTICLE XVI EMINENT DOMAIN

If at any time during the Term all or a significant portion of the FiberNet System which directly affects Lessee's business shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain, either party shall have the right, but not the obligation, to terminate this Agreement as to the FiberNet System, or portion thereof, upon sixty (60) days' advance written notice. Both Parties shall be permitted to participate in condemnation proceedings to seek to obtain compensation by means of separate awards for the economic value of their respective interests in the FiberNet System. In the event that Lessee's interest in such proceeding cannot be severed from Lessor's interest, Lessee shall be entitled to receive its pro rata share of the award for its interest in the FiberNet System.

ARTICLE XVII FORCE MAJEURE

Except with respect to payment of Rent or any other sum due under this Agreement, no party shall be liable for, nor shall such party be considered in default for any failure to perform its obligations under this Agreement due to any cause or causes beyond its control, including, without limitation: (i) acts of God; (ii) a public enemy or terrorist; (iii) act of any military, civil or regulatory authority; (iv) change in any law or regulation; (v) fire, flood, earthquake, storm or other like event; (vi) disruption or outage of communications, power or other utility; (vii) labor difficulties; (viii) cable cuts; or (ix) any other cause, whether similar or dissimilar to any of the foregoing, which could not have been prevented by such party with reasonable care (each, a "Force Majeure Event"). The time for performance required of the affected party shall be extended by the period of such delay, provided the party is exercising diligent efforts to overcome the cause of such delay.

ARTICLE XVIII RELATED AGREEMENTS

18.1 Agreements Related to Lease of FiberNet System. In connection with Lessee's build out of the FiberNet System in accordance with Section 12.2 and Lessee's obligations hereunder, Lessor agrees:

- (a) to provide to Lessee certain space at its property located at 1109 Industrial Park Road, Rock Falls, IL 61071 for laydown and storage of equipment and other materials pursuant to the terms and conditions of a laydown and storage lease in substantially the form attached hereto as Exhibit G (the "Laydown and Storage Lease");
- (b) to offer the services of its employee, A. Wayne Shafer, as a consultant for Lessee with respect to the operation and use of the FiberNet System and

Lessee's business, pursuant to the terms and conditions of a consulting agreement in substantially the form attached hereto as Exhibit H (the "Consulting Agreement");

- (c) to provide Lessee with access to "huts" operated and owned by Lessor for location of equipment and other facilities relating to the FiberNet System pursuant to the terms and conditions of a co-location agreement in substantially the form attached hereto as Exhibit I (the "Co-Location Agreement");
- (d) to grant to Lessee an indefeasible right of use providing long-term access to a specified number of fiber strands and/or customer drops on Lessor's Retained System pursuant to the terms and conditions of an indefeasible right of use agreement in substantially the form attached hereto as Exhibit J and Exhibit K (collectively, the "IRUs"); and
- (e) to provide to Lessee space on certain of Lessor's water towers located in the City of Rock Falls, Illinois, for placement of wireless broadband internet facilities and antennae, pursuant to the terms and conditions of a water tower license in substantially the form attached hereto as Exhibit L (the "Water Tower License", and collectively with the Right-of-Way Use Agreement, Laydown and Storage Lease, Consulting Agreement, Co-Location Agreement and IRUs, the "Related Agreements").

ARTICLE XIX MISCELLANEOUS PROVISIONS

19.1 Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered in person, sent by telecopier, recognized overnight delivery service or registered or certified mail with return receipt requested, postage prepaid, to the following addresses:

If to Lessee:

Surf Air Wireless, LLC
1705 State St.
P.O. Box 1401
La Porte, IN 46352
Attention: Gregory B. Armstrong

If to Lessor:

City of Rock Falls
603 W. 10th Street
Rock Falls, IL 61071
Attention: City Clerk

with a copy to (which shall not constitute Notice to Lessee):

Chilton Yambert Porter, LLP
303 W. Madison Street
Suite 2300
Chicago, IL 60606
Attention: Randall G. Vickery

with a copy to (which shall not constitute Notice to Lessor):

Ward, Murray, Pace & Johnson, P.C.
226 W. River Street
P.O. Box 404
Dixon, IL 61021

Notices delivered personally shall be effective upon delivery against receipt. Notices transmitted by telecopy shall be effective when received, if the burden of proving notice when notice is transmitted by telecopy shall be the responsibility of the party providing such notice. Notices delivered by overnight mail shall be effective when received. Notices delivered by registered or certified mail shall be effective on the date set forth on the receipt of registered or certified mail, or seventy-two (72) hours after mailing, whichever is earlier.

19.2 Surrender at End of Term. If the Option to Purchase is not exercised by Lessee, then Lessee agrees that upon the expiration or earlier termination of this Agreement it shall peaceably and quietly surrender and yield up to Lessor the FiberNet System. Lessee agrees that upon such event it shall return the FiberNet System to Lessor in good and working condition, reasonable wear and tear excepted.

19.3 Governing Law: Choice of Forum. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to conflicts of law principals of such state. Any claim, demand, action, proceeding, litigation, hearing, motion or lawsuit arising here from or with respect hereto shall be commenced or prosecuted exclusively in the United States District Court – Northern District of Illinois (Western Division) or the Fourteenth Judicial Circuit of Whiteside County, Illinois, as applicable, and each party hereby irrevocably consents to the jurisdiction of such courts.

19.4 Benefit and Assignment. All agreements made and entered into herein shall be binding upon and inure to the benefit of the Parties hereto, their successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned (by operation of law or otherwise) by the Parties hereto without the prior written consent of the other party, which consent will not be unreasonably withheld or delayed. Notwithstanding the foregoing, no such assignment shall relieve Lessee of any of its obligations hereunder, including the payment of Rent.

19.5 Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY VOLUNTARILY AND IRREVOCABLY WAIVES TRIAL BY JURY IN ANY ACTION OR OTHER PROCEEDING BROUGHT ABOUT THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

19.6 Other.

- (a) Each party shall bear its own expenses and costs incurred about the preparation of this Agreement and the consummation of the transactions contemplated hereby.
- (b) This Agreement may not be amended except by an instrument in writing signed by each of the Parties hereto.
- (c) This Agreement merges all previous negotiations and agreements between the parties hereto, either verbal or written, and constitutes the entire

agreement and understanding between the parties with respect to the subject matter of this Agreement.

- (d) If any one or more of the provisions contained in this Agreement, or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.
- (e) This Agreement may be executed in one or more counterparts, each of which when so executed shall be an original, but all of which together shall constitute one agreement. Facsimile signatures (or other form of electronic communication, such as .pdf) shall be deemed original signatures.
- (f) No delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of or in any similar breach or default occurring later. No waiver of any single breach or default shall be deemed a waiver of any other breach or default occurring before or after that waiver.
- (g) Should any litigation or proceeding be commenced under this Agreement, the successful party in such litigation or proceeding shall be entitled to recover, in addition to such other relief as the court may award, its reasonable attorneys' fees, expert witness fees, litigation related expenses, and court or other costs incurred in such litigation or proceeding. For purposes of this clause, the term "successful party" means the net winner of the dispute, taking into account the claims pursued, the claims on which the pursuing party was successful, the amount of money sought, the amount of money awarded, and offsets or counterclaims pursued (successfully or unsuccessfully) by the other party.
- (h) Nothing in this Agreement is intended to confer third-party beneficiary status on any person, individual, corporation or member of the public to enforce the terms of this Agreement.

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IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed by its duly authorized representative as of the day and year first above written.

LESSOR:

LESSEE:

CITY OF ROCK FALLS,
an Illinois municipal corporation

SURF AIR WIRELESS, LLC,
a Delaware limited liability company

By _____
Mayor

By _____
Its _____

ATTEST:

City Clerk

EXHIBIT B

(the "Fiber Optic Cable and Facilities")

FiberNet "Phase 1" business corridor fiber to the premises ("FTTP") network consisting of approximately 12.3 miles of high strand count fiber cable with two (2) outdoor cabinets and approximately four hundred ninety-eight (498) passings. The approximate location of the fiber cable is depicted below.



EXHIBIT C

(the "Equipment and Inventory")

1. All active customer fiber drops and materials.
2. Spare Inventory (see below)

SKU	Vendor	DESCRIPTION	OWNER	UNIT	QTY
MST-02-100		2 PORT MST 100'	Surf Broadband Solutions	EACH	2
MST-02-1000		2 PORT MST 1000'	Surf Broadband Solutions	EACH	3
MST-02-200		2 PORT MST 200'	Surf Broadband Solutions	EACH	
MST-02-300		2 PORT MST 300'	Surf Broadband Solutions	EACH	4
MST-02-400		2 PORT MST 400'	Surf Broadband Solutions	EACH	4
MST-02-500		2 PORT MST 500'	Surf Broadband Solutions	EACH	3
MST-02-600		2 PORT MST 600'	Surf Broadband Solutions	EACH	3
MST-02-750		2 PORT MST 750'	Surf Broadband Solutions	EACH	5
MST-02-800		2 PORT MST 800'	Surf Broadband Solutions	EACH	1
MST-04-100		4 PORT MST 100'	Surf Broadband Solutions	EACH	1
MST-04-600		4 PORT MST 600'	Surf Broadband Solutions	EACH	
MST-08-1000		8 PORT MST 1000'	Surf Broadband Solutions	EACH	
MST-08-200		8 PORT MST 200'	Surf Broadband Solutions	EACH	1
MST-12-500		12 PORT MST 500'	Surf Broadband Solutions	EACH	2
12S-0877	CESI	P250 Lockbox	Surf Broadband Solutions	EACH	50
12S-1693	CESI	P700 Lockbox	Surf Broadband Solutions	EACH	19
14457	FS	2-Port SC Simplex FTTH Wall Plate	Surf Broadband Solutions	EACH	16
62231	FS	Fiber Optic Wall Plate	Surf Broadband Solutions	EACH	47
400-300720	Millennium	HAND HOLE 1.0X1.5X1.2 TIER 1.5	Surf Broadband Solutions	EACH	40
500-140203	Millennium	FLAT TONABLE DROP 1.00'	Surf Broadband Solutions	EACH	15
500-140205	Millennium	FLAT TONABLE DROP 1.50'	Surf Broadband Solutions	EACH	10
BM 60		1.25 SDR Smooth Duct w/Tape	Surf Broadband Solutions	FEET	10560
0125-4707	CESI	P500 Lockbox	Surf Broadband Solutions	EACH	25
CG4WH-03	CESI	Telecrafter Flex Clip CAT3 GRND Wire 5/8in Bag of 100	Surf Broadband Solutions	EACH	5
CGT					
SM1X322541QRA2.1MQRA	CESI	1X32 PLO Splitter SM 1.5 meter	Surf Broadband Solutions	EACH	4
SM1X322541QRA22MQRA-A1	CESI	1X32 PLO Splitter SM 2 meter	Surf Broadband Solutions	EACH	4
CL7BK	CESI	Telecrafter RG7/RG11 CATV Bag of 100	Surf Broadband Solutions	EACH	5
CSBBK-33	CESI	Telecrafter Black 3/8 pass thru Flex Clip bag of 100.	Surf Broadband Solutions	EACH	2
CSBWH-33	CESI	Telecrafter White 3/8 pass thru Flex Clip bag of 100.	Surf Broadband Solutions	EACH	5
FS-AA1-001-DZZ-WZZ 0850F	Clearfield	Flexdrop Pushable Drop 850'	Surf Broadband Solutions	EACH	2
FS-AA1-001-DZZ-WZZ 0900F	Clearfield	Flexdrop Pushable Drop 900'	Surf Broadband Solutions	EACH	1
FS-AP2-001-DZZ-WZZ 01000F	Clearfield	Flexdrop Pushable Drop 1000'	Surf Broadband Solutions	EACH	4
FS-AP2-001-DZZ-WZZ 150'	Clearfield	Flexdrop Pushable Drop 150'	Surf Broadband Solutions	EACH	1
FS-AP2-001-DZZ-WZZ 50F	Clearfield	Flexdrop Pushable Drop 50'	Surf Broadband Solutions	EACH	0
FS-AP2-001-DZZ-WZZ 75F	Clearfield	Flexdrop Pushable Drop 75'	Surf Broadband Solutions	EACH	7
FS-AW2-001-CZZ-DZZ 0050F	Clearfield	Flexdrop Indoor Pushable 50'	Surf Broadband Solutions	EACH	0
FS-AW2-001-CZZ-DZZ 0075F	Clearfield	Flexdrop Indoor Pushable 75'	Surf Broadband Solutions	EACH	0
FS-AW2-001-CZZ-DZZ 0100F	Clearfield	Flexdrop Indoor Pushable 100'	Surf Broadband Solutions	EACH	6
FS-AA1-001-DZZ-WZZ 0250F	Clearfield	Flexdrop Pushable Drop 250'	Surf Broadband Solutions	EACH	4
FS-AP2-001-DZZ-WZZ 0125F	Clearfield	Flexdrop Pushable Drop 125F	Surf Broadband Solutions	EACH	10
FS-AA1-001-DZZ-WZZ 0350F	Clearfield	Flexdrop Pushable Drop 350F	Surf Broadband Solutions	EACH	2
FS-AP2-001-DZZ-WZZ 0300F	Clearfield	Flexdrop Pushable Drop 300F	Surf Broadband Solutions	EACH	5
FS-AA1-001-DZZ-WZZ 0200F	Clearfield	Flexdrop Pushable Drop 200F	Surf Broadband Solutions	EACH	7
FS-AW2-001-CZZ-DZZ 0150F	Clearfield	Flexdrop Indoor Pushable 150'	Surf Broadband Solutions	EACH	0
FS-CPLR-10MM-10MM-TAP	Clearfield	TAP BOX COUPLER 10MM TO 10MM	Surf Broadband Solutions	EACH	5
FS-DCR-NT-610-PS-2000F	Clearfield	10/6MM White Indoor Microduct	Surf Broadband Solutions	EACH	1
FS-DEO-T-214-PS-1250F	Clearfield	14/10 Direct Bury Microduct	Surf Broadband Solutions	EACH	1
64WH-03	CESI	3mm White Flex Clip	Surf Broadband Solutions	100 pack	3
BT-SM1X4-					
21.5MQRA22MQRA-P	CESI	1X4 PLO Splitter SM 1.5 meter	Surf Broadband Solutions	EACH	3
GT-SM1X4-22MQRA22MQRA-P	CESI	1X4 PLO Splitter SM 2 meter	Surf Broadband Solutions	EACH	2
HE1-001-COB-WZZ 150F	Clearfield	Flat Drop HFOC APC to SC/APC 150'	Surf Broadband Solutions	EACH	3
HE1-001-COB-WZZ 175F	Clearfield	Flat Drop HFOC APC to SC/APC 175'	Surf Broadband Solutions	EACH	5
HE1-001-COB-WZZ 200F	Clearfield	Flat Drop HFOC/APC to SC/APC 200'	Surf Broadband Solutions	EACH	1
HE1-001-COB-WZZ 225F	Clearfield	Flat Drop HFOC/APC to SC/APC 225'	Surf Broadband Solutions	EACH	2
HE1-001-COB-WZZ 250F	Clearfield	Flat Drop HFOC/APC To SC/APC 250'	Surf Broadband Solutions	EACH	2
L7BK	CESI	RG-7 and RG-11 Black Flex Clips	Surf Broadband Solutions	100 pack	4
5BWH-33	CESI	Snap-on Split 3/8" White Wall Bushing	Surf Broadband Solutions	100 pack	4
5BBK-33	CESI	Snap-on Split 3/8" Black Wall Bushing	Surf Broadband Solutions	100 Pack	1
TAP-8BD-1Z-ZZZ	Clearfield	Clearfield Tap Box	Surf Broadband Solutions	EACH	11
12V125F		PowerSafe Yellow 12V Sealed Battery	Surf Broadband Solutions	EACH	4

3. All active customer premise electronics.
4. Power, CORE and Access electronics (see below)

CORE, Access, Power		FTTP Inside Plant				Model	Use/Status
	LOC						
Juniper MX480	INDR					Included	Internet Edge
Juniper MX481	NITH					Included	Internet Edge
Adtran TA5006	INDR					Included	Access platform
Adtran TA5004	NITH					Included	Access platform
Adtran TA5005	TWTH					Included	Access platform
Adtran TA5006	AVEA					Included	Access platform
Infoblox	INDR					Included	DHCP appliance
Infoblox	NITH					Included	DHCP appliance
Dell Server	INDR					Included	Adtran ACE
Eltek recifiers & battery string	INDR					Included	DC power equip & backup - 24 hr hold est
Eltek recifiers & battery string	NITH					Included	DC power equip & backup - 24 hr hold est
Eltek recifiers & battery string	TWTH					Included	DC power equip & backup - 24 hr hold est
Eltek recifiers & battery string	AVEA					Included	DC power equip & backup - 24 hr hold est
Major Power Inverter	INDR					Included	small - for any critical AC pwr devices
Major Power Inverter	NITH					Included	small - for any critical AC pwr devices
Critical Spare set - Juniper & Adtran	INDR					Included	
CPE spares	INDR					Included	*5 each - Adtran 424 and 424RG
Various transceivers (10G, GPON, misc)	INDR					Included	

EXHIBIT D

(the "Bill of Sale")

EXHIBIT D

BILL OF SALE

THIS BILL OF SALE ("Bill of Sale") is executed as of the 30th day of October, 2020, by and between Surf Air Wireless, LLC, a Delaware limited liability company and its affiliates (the "Company"), and the City of Rock Falls, Illinois, an Illinois municipal corporation ("City").

BACKGROUND

Company and City entered into a Fiber Optic Infrastructure and Equipment Lease, dated as of October 30, 2020, (the "Agreement"), providing for, among other things, the lease of the FiberNet System and certain other rights of City to Company in exchange for consideration in the amount and on the terms and conditions provided for in the Agreement.

The Agreement provided for an option to purchase the FiberNet System by Company prior to the expiration of the Term, and Company has exercised such option by giving written notice thereof to City.

In connection with Company's exercise of the option, Company and City are executing and delivering this instrument evidencing the vesting in Company of all of City's right, title, and interest in and to the FiberNet System, and Company's assumption of the Assumed Liabilities, on the terms and conditions set forth in the Agreement, in addition to such other instruments that the Company will have otherwise received or may hereafter receive pursuant to the Agreement.

All capitalized terms used and not otherwise defined in this Bill of Sale shall have the meanings given them in the Agreement.

NOW, THEREFORE, FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, and subject to the terms and conditions of this Bill of Sale, the parties hereto agree as follows:

1. Assets to be Purchased. Subject to the terms and conditions of the Agreement, City hereby sells, transfers, conveys, assigns, and delivers to Company, and Company hereby receives and accepts, the FiberNet System, to have and to hold unto Company and its successors and assigns forever.

2. Liabilities to be Assumed. Subject to the terms and conditions of the Agreement, Company hereby assumes and agrees to perform and discharge the Assumed Liabilities. Notwithstanding anything to the contrary contained herein or in the Agreement, the Assumed Liabilities will specifically not include the Excluded Liabilities, which will remain the liabilities and obligations of City.

3. Miscellaneous. The provisions of this Bill of Sale are subject, in all respects, to the terms and conditions of the Agreement and all of the representations and warranties, covenants, and

agreements contained therein, all of which will survive the execution and delivery of this Bill of Sale to the extent provided in the Agreement. Nothing contained in this Bill of Sale shall supersede, modify, replace, amend, change, rescind, waive, exceed, enlarge or in any way affect the provisions set forth in the Agreement. This Bill of Sale may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. The signature page to this Bill of Sale may be delivered by facsimile or other electronic transmission and the signatures thereon shall be deemed effective upon receipt by the intended receiving party.

IN WITNESS WHEREOF, Company and City have executed this Bill of Sale to be effective as of the date set forth herein.

COMPANY:

SURF AIR WIRELESS, LLC

By: _____
Gregory B. Armstrong
Title: Chairman & CEO

CITY:

CITY OF ROCK FALLS

By: _____
Mayor

EXHIBIT E

(the "Right-of-Way Use Agreement")

EXHIBIT E

**RIGHT OF WAY USE AGREEMENT
FOR BROADBAND INTERNET
BY AND BETWEEN
THE
CITY OF ROCK FALLS
AND
SURF AIR WIRELESS, LLC**

This Right of Way Use Agreement (hereinafter, the "Agreement") is made between the City of Rock Falls, an Illinois municipal corporation (including the lawful successor, transferee, designee, or assignee thereof, hereinafter, the "City") and Surf Air Wireless, LLC, a Delaware limited liability company (including its operational affiliates, hereinafter, "Grantee") this 30th day of October, 2020 (the "Effective Date"). City and Grantee are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

WHEREAS, the City and Grantee are parties to that certain Fiber Optic Infrastructure and Equipment Lease, dated as of October 30, 2020 (the "Lease"), providing for, among other things, the lease of the City's FiberNet System and certain other rights of City to Grantee in exchange for consideration in the amount and on the terms and conditions provided for in the Lease; and

WHEREAS, as a condition to the execution of the Lease and the lease of the FiberNet System to Grantee, the Parties have agreed to establish certain rights and obligations between the Parties with respect to Grantee's current and future construction, operation and maintenance of a Fiber Optic Network within the City, which network will be utilized for the purpose of providing broadband internet access services to the residents and businesses of the City, and the general community at large; and

WHEREAS, the Parties desires to enter into this Agreement to provide for such rights and obligations, all upon the terms and conditions as are more specifically set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties hereto agree as follows:

SECTION 1: Definition of Terms.

For purposes of this Agreement, all capitalized terms, phrases, words, and abbreviations used herein shall have the meanings as are ascribed to them in this Section 1. All other capitalized terms, phrases, words and abbreviations not defined in this Section 1 shall have the meanings ascribed to them in the Lease.

"BIAS" means broadband internet access service, which is a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the service, but excluding dial-up internet access service and any service that the FCC determines, from time to time, to be functionally equivalent.

"FCC" means the Federal Communications Commission of the United States of America.

“Fiber Optic Network” means Grantee’s facilities and equipment that comprise the network, consisting of a set of signal generation, reception and control equipment and fiber routes that are collectively designed to provide BIAS to multiple Subscribers within the Franchise Area, but such term does not include (i) a facility that serves Subscribers without using any Public Ways, (ii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, as amended, except that such a facility shall be considered a Fiber Optic Network to the extent such facility is also used in the transmission of BIAS directly to Subscribers; or (iii) any facilities of any electric utility used solely for operating its electric utility systems.

“Franchise” means the initial authorization, or renewal thereof, issued by the City, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction or operation of the Fiber Optic Network in the Franchise Area. For the avoidance of doubt, this Agreement qualifies as a Franchise.

“Franchise Area” means (i) the legal boundaries of the City; and (ii) the area serviced by the electrical utility of the City, and shall also include any additions or subtractions thereto by annexation or other legal means.

“Gross Revenue” means the revenue received by the Grantee from the operation of the Fiber Optic Network in the Franchise Area to provide BIAS, calculated in accordance with generally accepted accounting principles. Gross Revenue includes installation fees and equipment rental fees. Gross Revenue shall also include such other revenue sources from BIAS delivered over the Fiber Optic Network as may now exist or hereafter be developed by Grantee. Gross Revenue shall not include refundable deposits, bad debt, investment income, any launch support payments, third-party advertising sales commissions and agency fees, nor any taxes, fees or assessments imposed or assessed by any governmental authority.

“Initial Franchise Service Area” means that portion of the Franchise Area served by the Grantee’s Fiber Optic Network as of the Effective Date of this Agreement.

“Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the City.

“Public Way” shall mean the surface of, and the space above and below, any public street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including, but not limited to, public utility easements and other easements dedicated for compatible uses, now or hereafter held by the City in the Franchise Area, to the extent that the City has the right and authority to authorize, regulate, or permit the location of facilities other than those of the City along such surface or space.

“Subscriber” means a Person who lawfully receives with the Grantee’s express permission, and pays Grantee for, the provision of BIAS over the Fiber Optic Network.

SECTION 2: Grant of Authority.

2.1. Grant. The City hereby grants to the Grantee a non-exclusive Franchise authorizing the Grantee to construct and operate a Fiber Optic Network in the Public Ways within the Franchise Area and, for that purpose, to erect, install, construct, micro-trench, repair, replace, reconstruct, maintain, or retain in any Public Way such wires, lines, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to, or useful in the operation of, the Fiber Optic Network, and to provide such services over the Fiber Optic Network as may be lawfully allowed. Notwithstanding the foregoing, this Agreement shall not be construed as granting any right or authorization to Grantee to place or attach equipment or other instruments utilized for the provision of wireless communications services on utility poles located within the Public Way unless otherwise done in accordance with the applicable ordinances of the City.

2.2. Term and Renewal. The initial term of this Agreement shall be for a period of twenty (20) years from the Effective Date, unless earlier terminated in accordance with the terms herein and/or applicable law (the "Initial Term"). This Agreement shall automatically renew for four (4) additional five (5) year periods thereafter (each, a "Renewal Term", and collectively with the Initial Term, the "Term"), unless Grantee notifies City of its intent not to renew at least one hundred and twenty (120) days prior to the end of the Initial Term or the then current Renewal Term.

2.3. Police Powers. Nothing in this Agreement shall be construed as an abrogation by the City of any of its police powers to adopt and enforce generally applicable ordinances deemed necessary for the health, safety, and welfare of the public, and the Grantee shall comply with all generally applicable laws and ordinances enacted by the City pursuant to such police power. City's obligations to police the use of the Public Way shall be limited solely to those areas located within the territorial limits of the City.

2.4. Reservation of Authority. Nothing in this Agreement shall (i) abrogate the right of the City to perform any public works or public improvements of any description, (ii) be construed as a waiver of any codes or ordinances of general applicability promulgated by the City, or (iii) be construed as a waiver or release of the rights of the City in and to the Public Ways.

2.5. Competitive Equity. In the event an application for a new BIAS Franchise or other similar request is filed with the City proposing to serve the Franchise Area, in whole or in part, the City shall to the extent permitted by law promptly notify the Grantee, or require the Grantee to be notified, and include a copy of such application or similar request.

2.6. Parking. Notwithstanding anything to the contrary herein, and provided that appropriate vehicle safety markings have been deployed, Grantee's vehicles shall be exempt from parking restrictions of the City while used in the course of installation, repair, and maintenance work on the Fiber Optic Network.

SECTION 3: Construction and Maintenance of the Fiber Optic Network.

3.1. Public Way Regulation. Except as may be otherwise provided in this Agreement, Grantee shall comply with all provisions generally applicable to all occupants of the Public Way

of Chapter 26, entitled "Streets, Sidewalks and Other Public Places," of the Rock Falls Municipal Code, as may be amended from time to time.

3.2. Aerial and Underground Construction. At the time of Fiber Optic Network construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Fiber Optic Networks' transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Grantee's fiber and other equipment without technical degradation of the Fiber Optic Network's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities or any part thereof, aerially or underground. Notwithstanding the foregoing, Grantee shall use commercially reasonable efforts to locate all transmission or distribution facilities underground.

3.3. Relocation. Grantee acknowledges that the City may require, from time to time, that Grantee's facilities placed in the Public Way pursuant to this Agreement be relocated if deemed reasonably necessary for the public health, safety and welfare by the City, in its sole discretion, for any public projects or improvements.

3.3.1. In the event the City requires users of the Public Way who operate aerial facilities to relocate such aerial facilities underground, Grantee shall, and shall be provided an opportunity to, participate in the planning for relocation of its aerial facilities, if any, contemporaneously with such users. Grantee shall be reimbursed its relocation costs from public or private funds allocated for such relocation to the same extent as such funds are made available to other users of the Public Way, if any.

3.3.2. Upon receipt of such notification by City to Grantee that the facilities will need to be relocated, the Parties will, within ten (10) days, mutually agree upon the length of time it will take for Grantee to accommodate such request, and upon and in accordance with the terms of such agreement, Grantee shall proceed with such relocation. City agrees that it shall use reasonable efforts to assist Grantee with any relocation required under this Section 3.3.

3.4. Non-Interference. The City shall not physically interfere with or cause harmful interference to the Fiber Optics Network installed by Grantee pursuant to this Agreement. The Parties shall coordinate with each other on any maintenance of the Public Way and the Fiber Optic Network so as not to obstruct or impede each other's performance of such maintenance. Grantee shall provide the City with a telephone number that the City can contact to request Grantee's coordination pursuant to this Section.

SECTION 4: Service Obligations.

4.1. Initial Service Obligations. Grantee shall design the Fiber Optic Network to provide BIAS to Subscribers upon their request throughout the Initial Franchise Service Area. The Grantee shall continue to make BIAS available in the Initial Franchise Service Area throughout the term of this Agreement, and Grantee shall extend its Fiber Optic Network and provide service consistent with the provisions of this Agreement.

4.2. General Service Obligation. The Grantee shall make BIAS available beyond the Initial Franchise Service Area to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per linear mile of the Fiber Optic Network as measured from the Fiber Optic System's closest commercially reasonable and technically feasible connection point ("Access Point"). Subject to this density requirement, Grantee shall offer BIAS to all new homes or previously unserved homes located within one hundred twenty-five (125) feet of the nearest Access Point along the Fiber Optic Network (hereinafter, a "Standard Installation").

4.2.1. Long Drops. The Grantee may elect to provide BIAS to areas not meeting the above density and distance standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop or line extension in excess of a Standard Installation. Any such additional charge shall be computed on a time plus materials basis plus a reasonable rate of return.

4.3. Technical Standards. The Grantee shall comply with all applicable industry technical standards mutually agreed by the Parties from time to time. The Grantee shall cooperate with the City in conducting inspections related to these standards upon reasonable prior written request from the City.

4.4. Annexations and New/Planned Developments. In cases of annexation to the Franchise Area, the City shall provide the Grantee written notice of such annexation. In cases of new construction, planned developments or property development where undergrounding or extension of the Fiber Optic Network is required, the City shall provide or cause the developer or property owner to provide notice of the same. Such notices shall be provided at the time of notice to all utilities or other like occupants of the City's Public Way. If advance notice of such annexation, new construction, planned development or property development is not provided, the Grantee shall be allowed an adequate time to prepare, plan and provide a detailed report as to the timeframe for it to construct its facilities and provide the services required under this Agreement.

4.5. Subscriber Service Obligations. The City and Grantee acknowledge that Section 8.1(a) of the FCC's rules, 47 C.F.R. § 8.1(a), requires BIAS providers to publicly disclose accurate information to their Subscribers regarding the providers' network management practices, performance characteristics, and commercial terms of its BIAS. Grantee shall comply with this disclosure obligation and all other consumer disclosure and information protection requirements under applicable law.

SECTION 5: Oversight and Regulation by City.

5.1. Franchise Fees. The Grantee shall pay to the City a franchise fee ("Franchise Fee") in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the Fiber Optic Network to provide BIAS to Subscribers in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage of fees than any other BIAS provider, under state authorization or otherwise, providing BIAS in the Franchise Area using the Public Ways ("Competing Provider"). The payment of Franchise Fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. If mailed, the Franchise Fee shall be considered paid on the date it is postmarked. Each Franchise Fee payment shall be accompanied by a report prepared by a

representative of the Grantee showing the basis for the computation of the Franchise Fees paid during that period. Any undisputed Franchise Fee payment which remains unpaid in whole or in part, after the date specified herein shall be delinquent. For any delinquent Franchise Fee payments, Grantee shall make such payments including interest at the prime lending rate as quoted by JP Morgan Chase & Co., or its successor, computed from time due until paid. Any undisputed overpayments made by the Grantee to the City shall be credited upon discovery of such overpayment until such time when the full value of such credit has been applied to the Franchise Fee liability otherwise accruing under this Section.

5.2. Franchise Fees Subject to Audit. At the request of the City, Grantee shall permit an independent certified public accountant appointed by City and acceptable to Grantee, at reasonable times and upon reasonable notice, to examine those records and all other material documents relating to or relevant to Gross Revenues of Grantee and Franchise Fees paid in accordance with this Agreement, for a period of three (3) years after such Franchise Fees have accrued, as may be necessary to determine the correctness of any report or payment made under this Agreement. Results of any such examination shall be made available to both Parties. City shall bear the full cost of the performance of any such audit, unless such audit demonstrates underpayment of Franchise Fees by Grantee in excess of ten percent (10%) from the amount of the original Franchise Fee payment made by Grantee. In such event, Grantee shall bear the full cost of the performance of such audit.

5.3. Proprietary Information. Notwithstanding anything to the contrary set forth in this Agreement, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, with the exception of the information directly related to an audit of Franchise Fees as set forth in Section 5.2. The City agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the City that have a need to know in order to enforce this Agreement and who agree to maintain the confidentiality of all such information. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Fiber Optic Network design, Subscriber lists, marketing plans, financial information unrelated to the calculation of Franchise Fees, or other information that is reasonably determined by the Grantee to be competitively sensitive. Grantee may make proprietary or confidential information available for inspection, but not copying or removal. In the event that the City has in its possession and receives a request under the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.), or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the City shall notify Grantee of such request and cooperate with Grantee in opposing such request. Grantee shall indemnify and defend the City from and against any claims arising from the City's opposition to disclosure of any information Grantee designates as proprietary or confidential. Compliance by the City with an opinion or directive from the Illinois Public Access Counselor or the Illinois Attorney General under the Illinois Freedom of Information Act, or with a decision or order of a court with jurisdiction over the City, shall not be a violation of this Section.

SECTION 6: Assignment of Agreement or Transfer of Control of Grantee.

6.1. The Grantee may not assign this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

6.2. During the Term, no transfer of control of the Grantee, defined as an acquisition of fifty-one percent (51%) or greater ownership interest in Grantee, shall take place without the prior written consent of the City, which consent shall not be unreasonably withheld or delayed.

6.3. No consent shall be required, however, for (1) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in this Agreement in order to secure indebtedness, or (2) a transfer to an affiliate of Grantee that controls Grantee, is directly or indirectly owned or controlled by Grantee, or is commonly controlled with Grantee. Notwithstanding the foregoing, no such transfer shall act to relieve Grantee from its obligations under this Agreement, including payment of the Franchise Fee to City.

6.4. The Grantee, and any proposed assignee or transferee under this Section 6, shall submit a written application to the City containing or accompanied by such information as is reasonably required by the City. Within thirty (30) days after receiving a request for consent, the City shall notify the Grantee in writing of any additional information, if any, it requires to determine the legal, financial and technical qualifications of the assignee or new controlling party. If the City has not taken final action on the Grantee's request for consent within one hundred (120) days after receiving such request, consent shall be deemed granted. No consent shall be given unless the assignee or transferee agrees in writing to assume the obligations of the Grantee under this Agreement.

6.5. Any transfer of control resulting from or after the appointment of a receiver or receivers or trustee or trustees, however denominated, designated to take over and conduct the business of the Grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of a one hundred twenty (120) day period, shall be treated as a transfer of control and require the City's consent thereto in the manner described in Section 6 above.

SECTION 7: Insurance, Indemnity, and Limitation of Liability

7.1. Insurance. Throughout the term of this Agreement, the Grantee shall, at its own cost and expense, maintain Commercial General Liability Insurance and, at their request, provide the City certificates of insurance designating the City and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of five million dollars (\$5,000,000.00) for bodily injury or death to any one person, and five million dollars (\$5,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and five million dollars (\$5,000,000.00) for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the City. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the City from any workers compensation claims to which the Grantee may become subject during the term of this Agreement.

7.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the City, its officers, employees, and agents (the "Indemnitees") from and against any injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense (the "Indemnification Events"), arising in the course of the Grantee

constructing, operating or maintaining its Fiber Optic Network within the City. The Grantee's obligation with respect to the Indemnitees shall apply to Indemnification Events which may occur during the term of this Agreement, provided that the claim or action is initiated within the applicable statute of limitations, notwithstanding that the claim may be made or action filed subsequent to the termination or expiration of this Agreement. The City shall give the Grantee timely written notice of its obligation to indemnify and defend the City after the City's receipt of a claim or action pursuant to this Section. For purposes of this Section, the word "timely" shall mean within a time period that does not cause prejudice to the respective positions of the Grantee and/or the City. If the City elects in its own discretion to employ additional counsel, the costs for such additional counsel for the City shall be the responsibility of the City. The indemnification provided for herein shall survive the expiration or earlier termination of this Agreement.

7.2.1. The Grantee shall not indemnify the City for any liabilities, damages, costs or expense resulting from any conduct for which the City, its officers, employees and agents may be liable under the laws of the State of Illinois.

7.2.2. Nothing herein shall be construed to limit the Grantee's duty to indemnify the City by reference to the limits of insurance coverage described in this Agreement.

7.3. Limitation of Liability. In connection with the subject matter of this Agreement, neither Party shall be liable for consequential, indirect, or punitive damages (including lost revenues, loss of equipment, interruption or loss of service, or loss of data) for any cause of action, whether in contract, tort, or otherwise, even if the Party was or should have been aware of the possibility of these damages, whether under theory of contract, tort (including negligence), strict liability, or otherwise. This limitation shall survive the expiration or earlier termination of this Agreement.

SECTION 8: Breach of Agreement; Default.

8.1. Notice of Violation or Default. Upon a failure by Grantee to comply with any material term of this Agreement, the City shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default and demand that Grantee promptly remedy or cure such default.

8.2. Right to Cure; Termination. If such default is not cured within sixty (60) days after the receipt of such notice (or, if such default cannot be cured within such sixty (60) day period, if the Grantee does not commence and diligently continue actions to cure such default), the City shall be entitled, without prejudice to any of its other rights conferred on it by this Agreement, in addition to any other remedies available to it by law or in equity, to terminate this Agreement by giving written notice to take effect within thirty (30) days after such notice unless Grantee shall cure such default within said thirty (30) days.

SECTION 9: Miscellaneous Provisions.

9.1. Grantee to Provide Internet Services. During the Term, Grantee agrees to provide to City, at a minimum, with the equivalent of its one (1) gigabit per second "business" or "commercial" internet service package at all City locations within the Franchise Area available for connection to the Fiber Optic Network.

9.2. Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Fiber Optic Network, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's fiber or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary. Non-compliance or default shall be corrected within a reasonable amount of time after force majeure has ceased.

9.3. Notice. All notices or other communications required or permitted under this Agreement shall be in writing and may be given by depositing the same in the United States mail, addressed to the Party to be notified, postage prepaid and registered or certified with return receipt requested, by overnight courier, or by delivering the same in person to such Party, addressed as follows:

To the City:

City of Rock Falls
603 West 10th Street
Rock Falls, Illinois 61071
ATTN: City Administrator

With copy to:

Ward, Murray, Pace & Johnson, P.C.
226 W. River Street
Dixon, IL 61021
ATTN: Matthew D. Cole

To the Grantee:

Surf Air Wireless, LLC
P.O. Box 1401
La Porte, IN 46352
ATTN: Gregory B. Armstrong, CEO

With copy to:

Chilton, Yambert and Porter, LLP
303 W Madison, Suite 2300
Chicago, IL 60606
ATTN: Randy Vickery

9.4. Entire Agreement. This Agreement embodies the entire understanding and agreement of the City and the Grantee with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and communications, whether written or oral. Except for ordinances adopted pursuant to Sections 2.3 and 2.4 of this Agreement, all ordinances or parts of ordinances related to the provision of BIAS that are in conflict with or otherwise impose obligations different from the provisions of this Agreement are superseded by this Agreement.

9.5. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect. If any material provision of this Agreement is made or found to be unenforceable by such

a binding and final decision, either Party may notify the other in writing that the Agreement has been materially altered by the change and of the election to begin negotiations to amend the Agreement in a manner consistent with said proceeding or enactment; provided, however, that any such negotiated modification shall be competitively neutral, and the Parties shall be given sufficient time to implement any changes necessitated by the agreed-upon modification.

9.6. Governing Law. This Agreement shall be deemed to be executed in the State of Illinois, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Illinois and/or Federal law, as applicable.

9.7. Venue. Except as to any matter within the jurisdiction of the Federal courts or the FCC, all judicial actions relating to any interpretation, enforcement, dispute resolution or any other aspect of this Agreement shall be brought in the Circuit Court of the State of Illinois, Whiteside County, Illinois. Any matter brought pursuant to the jurisdiction of the Federal court shall be brought in the United States District Court of the Northern District of Illinois – Western Division.

9.8. Modification. Except as otherwise specifically provided herein, no provision of this Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the City and the Grantee, which amendment shall be authorized on behalf of the City through the adoption of an appropriate ordinance or resolution by the City, as required by applicable law.

9.9. No Third-Party Beneficiaries. Nothing in this Agreement is intended to confer third-party beneficiary status on any person, individual, corporation or member of the public to enforce the terms of this Agreement.

9.10. No Waiver of Rights. Nothing in this Agreement shall be construed as a waiver of any rights, substantive or procedural, Grantee may have under State or Federal law unless such waiver is expressly stated herein. No delay of or omission in the exercise of any right, power or remedy accruing to any Party as a result of any breach or default by any other Party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of or in any similar breach or default occurring later. No waiver of any single breach or default shall be deemed a waiver of any other breach or default occurring before or after that waiver.

9.11. Validity of Agreement. The Parties acknowledge and agree in good faith on the validity of the provisions, terms and conditions of this Agreement, in their entirety, and that the Parties have the power and authority to enter into the provisions, terms, and conditions of this Agreement.

9.12. Authority to Sign Agreement. Grantee warrants to the City that it is authorized to execute, deliver and perform this Agreement. The individual signing this Agreement on behalf of the Grantee warrants to the City that s/he is authorized to execute this Agreement in the name of the Grantee.

9.13. Counterparts. This Agreement may be executed in two or more original or electronic counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. Facsimile transmission (or other form of electronic communication, such as .pdf) of a counterpart hereto shall constitute an original hereof.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized representatives of the Parties as set forth below, as of the Effective Date.

CITY OF ROCK FALLS,
an Illinois municipal corporation

SURF AIR WIRELESS, LLC,
a Delaware limited liability company

By _____
Mayor

By _____
Its _____

ATTEST:

City Clerk

EXHIBIT F

(the “Assignment and Assumption Agreement”)

EXHIBIT F

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is executed as of the 30th day of October, 2020, by and between the City of Rock Falls, Illinois, a municipal corporation ("City") and Surf Air Wireless, LLC, a Delaware limited liability company and its affiliates ("Company").

WHEREAS, Company and City entered into a Fiber Optic Infrastructure and Equipment Lease, dated as of October 30, 2020, (the "Agreement"), providing for, among other things, the lease of the FiberNet System and certain other rights of City to Company in exchange for consideration in the amount and on the terms and conditions provided for in the Agreement.

WHEREAS, pursuant to the Agreement, City has agreed to transfer, assign and convey all of its rights in the Assignments to Company or its assigns, and Company has agreed to acquire and assume the Assignments and Assumed Liabilities from City.

NOW, THEREFORE, FOR VALUE RECEIVED, the receipt and sufficiency of which is hereby acknowledged, and subject to the terms and conditions of the Agreement, the parties hereto agree as follows:

1. Defined Terms. Capitalized terms used but not defined herein have the meanings given them in the Agreement.
2. Assignment and Assumptions. Subject to the terms and conditions of the Agreement, City hereby irrevocably assigns, sets over, transfers and conveys to Company all of City's right, title and interest in and to the Assignments and the Assumed Liabilities. Company hereby accepts this Assignment and the rights granted herein, and Company hereby expressly assumes, for itself and its successors, assigns and legal representatives, the Assignments and Assumed Liabilities, and all of the obligations and liabilities, fixed and contingent, of City thereunder accruing from and after the date hereof with respect to the same. The liabilities assumed hereunder shall specifically not include the Excluded Liabilities, which shall remain the liabilities and obligations of City.
3. Miscellaneous. The provisions of this Assignment are subject, in all respects, to the terms and conditions of the Agreement and all of the representations and warranties, covenants, indemnities and agreements contained therein, all of which will survive the execution and delivery of this Assignment to the extent provided in the Agreement. This Assignment may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same document. A facsimile or .pdf of an executed counterpart of this Assignment will be deemed to be an original executed counterpart of this Assignment.

IN WITNESS WHEREOF, Company and City have executed this Assignment to be effective as of the date set forth herein.

COMPANY:
SURF AIR WIRELESS, LLC

By: _____
Gregory B. Armstrong

Title: Chairman & CEO

CITY:
CITY OF ROCK FALLS

By: _____
Mayor

EXHIBIT G

(the "Laydown and Storage Lease")

EXHIBIT G

LAYDOWN AND STORAGE LEASE

THIS LAYDOWN AND STORAGE LEASE (this “**Lease**”) is dated October 30, 2020, (the “**Effective Date**”) by and between the CITY OF ROCK FALLS, an Illinois municipal corporation (hereafter called “**Landlord**”) and SURF AIR WIRELESS, LLC, a Delaware limited liability company (hereafter called “**Tenant**”).

Landlord, for and in consideration of the rent reserved herein, and of the covenants, conditions and agreements of Tenant hereinafter mentioned, hereby demises and leases to the Tenant, that portion of Landlord’s property consisting of: (i) one (1) office space at the building located at 1109 Industrial Park Road, Rock Falls, IL 61071 (the “**Property**”) currently occupied by Landlord’s Fiber Department Supervisor (the “**Office Space**”); (ii) heated inside storage at the Property on the pre-existing twenty-four foot (24’) shelving placed therein (the “**Shelving Space**”); and (iii) an approximately thirty foot (30’) by sixty foot (60’) outside staging area at the Property as designated on the drawing attached hereto and made a part hereof as Exhibit A (the “**Staging Area**”, and collectively with the Office Space and Shelving Space, the “**Leased Premises**”).

1. Term: The term of this Lease shall commence on November 1, 2020, and end on October 31, 2021, unless sooner terminated as hereinafter provided (the “**Term**”).

2. Permitted Uses: The Leased Premises are to be used for (a) the laydown and storage of materials and equipment in connection with Tenant’s broadband internet service business, and (b) parking of vehicles and equipment, including roadway ingress and egress, incident thereto (all of the foregoing, the “**Permitted Uses**”).

3. Removal of Property: Tenant agrees that upon the expiration or earlier termination of this Lease, Tenant will, at its sole cost and expense, remove from the Leased Premises any and all materials and equipment stored by Tenant on the Leased Premises. The Leased Premises shall be surrendered in substantially the same or similar condition as when delivered to Tenant on the Effective Date, reasonable wear and tear and loss by casualty excepted.

4. Rent: Tenant shall pay Landlord rent (“**Rent**”) in the amount of ONE THOUSAND AND NO/100THS DOLLARS (\$1,000.00) per month on or before the first (1st) day of each month during the Term.

All rent payments shall be mailed to:

City of Rock Falls
603 West 10th St.
Rock Falls, Illinois 61071

unless otherwise designated by the Landlord in writing. If the Term of this Lease ends on a day other than the last day of a month, the rent payable for that month shall be apportioned on a per diem basis.

5. Condition of Leased Premises: Tenant has examined the Leased Premises and knows of its condition. No representations as to the condition and repair of the Leased Premises have been made by Landlord. No agreements to make any alterations, repairs or improvements in or about the Leased Premises have been made by Landlord. Landlord provides the Leased Premises on an "as-is, where-is" basis and "with all faults" and makes no warranties of any kind or nature, whether expressed or implied, with respect to the Leased Premises, including, without limitation any warranties of merchantability or fitness for a particular purpose, which are all hereby expressly disclaimed.

6. Alterations by Tenant: No alterations will be made by Tenant without prior written consent by Landlord, which shall not be unreasonably withheld, delayed or conditioned. Tenant, after receiving Landlord's consent, may fill, grade, and level the Staging Area for the Permitted Uses.

7. Maintenance of Leased Premises: Landlord, at its sole cost and expense, shall maintain (or cause to be maintained) the Leased Premises, including, without limitation, (a) all electric, gas, and water and sewer utilities serving the Leased Premises, (b) the roadways accessing the Leased Premises, (c) the repair and replacement of all buildings, structures, fixtures, and equipment located on or in the Leased Premises, other than Tenant's equipment, and (d) all surface and stormwater drainage for the Leased Premises (such that there is no surface or stormwater issues that will impair, in any way, Tenant's use of the Leased Premises). In addition, Landlord, at its sole cost and expense, shall keep and maintain the Leased Premises together with any fences, gates, wheel stops, barricades and other improvements located thereon, in a clean, neat, orderly and sightly condition, at all times during the Term of this Lease. Landlord, at its sole cost and expense, shall provide electric, gas, and water and sewer facilities to the Leased Premises.

8. Zoning and Permits: Landlord assumes sole responsibility for compliance with all applicable zoning laws and ordinances, building codes and governmental regulations. Landlord hereby represents and warrants that the Leased Premises is properly zoned for the Permitted Uses and that Landlord does not need to seek a zoning change to permit the Permitted Uses of the Leased Premises. In the event Tenant is prohibited from using the Leased Premises as intended by Tenant, Tenant may terminate this Lease upon giving Landlord no less than five (5) days written notice, whereupon this Lease shall terminate and Rent shall be prorated to the date of such termination.

9. Default; Remedies: If Tenant defaults in the payment of the Rent herein reserved or any part thereof or in any of the covenants and agreements herein contained to be kept by Tenant, Landlord shall provide Tenant written notice of such default and Tenant shall have thirty (30) days to cure such default; provided, however, that if any such default cannot be reasonably cured within such thirty (30) day period, Tenant shall be given such additional time as is reasonably necessary to cure such default so long as Tenant commences such cure within such thirty (30) day period and diligently pursue such cure thereafter. If Tenant fails to cure any such default within such thirty-day period, or such additional time as may be reasonably necessary to cure such event of default as described above, Landlord may, at its election, without notice or

demand to Tenant, terminate the Lease, and thereupon proceed to re-enter the Leased Premises, with process of law, and to expel, remove and put out Tenant, or any person or persons occupying the Leased Premises, without prejudice to any remedies, which might otherwise be used for arrears of rent or preceding breach covenants. Notwithstanding the foregoing, an event of default shall also be deemed to have occurred and shall grant to Landlord the authority to immediately terminate this Lease if (a) Tenant becomes insolvent; or (b) institutes or has instituted against it bankruptcy proceedings which are not dismissed within ninety (90) days of filing; or (c) makes a general assignment for the benefit of creditors; or (d) if a receiver is appointed for the benefit of its creditors; or (e) if a receiver is appointed on account of its insolvency; or (f) Tenant defaults under the provisions of that certain Right of Way Use Agreement for Broadband Internet dated _____, 2020, by and between Tenant and Landlord, and Tenant fails to cure such default within the applicable cure period therein.

10. Attorneys' Fees: Tenant and Landlord shall pay all the costs, charges and expenses, including the fees of counsel, agents and others retained by the other party, incurred for enforcing the Tenant's or Landlord's obligations hereunder, or incurred by the other party in any litigation, negotiation or transaction, in which the Tenant or Landlord causes the other party, without the other party's fault, to become involved or concerned.

11. Receipt of Money: No receipt of money by the Landlord from the Tenant, after the termination of this Lease, or after the service of any notices, or after the commencement of any suit, or after final judgment for possession of the Leased Premises, shall renew, reinstate, continue or extend the Term of this Lease or affect any such notice, demand or suit.

12. Waiver: No waiver of any default by the Tenant or Landlord shall be implied from any omission by the other party to take any action on account of such default, if such default persists or be repeated, and no express waiver shall affect any default, other than the default specified in the express waiver, and that only for the time and to the extent therein stated: the invalidity or unenforceability of any provision hereof shall not affect or impair any other provision.

13. Notices: All notices to Tenant shall be in writing to: Surf Air Wireless, LLC, 1705 State St., LaPorte, IN 46350, with a copy to Randy Vickery at Chilton, Yambert Porter, LLP, 303 W. Madison, Suite 2300, Chicago, IL 60606 or at such other place as Tenant may from time-to-time designate in writing. All notices to Landlord shall be in writing; addressed to Landlord at City of Rock Falls, 603 West 10th Street, Rock Falls, Illinois 61071 or at such other place as Landlord may, from time-to-time, designate in writing. The term, "in writing," shall include telegraphic, telecopier, telex, electronic mail or similar means of transmitting writings.

14. Indemnification: Landlord and Tenant each indemnifies and agrees to defend the other against and hold the other harmless from any and all costs (including reasonable attorneys' fees) and claims of liability or loss which arise out of the ownership, use and occupancy of the Leased Premises or the Property by the indemnifying party. This indemnity does not apply to any claims arising from the negligence or intentional misconduct of the indemnified party. The indemnity obligations hereunder will survive the expiration or earlier termination of this Lease.

15. Insurance: Tenant shall provide a certificate of insurance to Landlord naming Landlord as an additional insured, in accordance with the limits as required by Landlord's Municipal Insurance Carrier. The limits for general liability shall be \$1,000,000. In addition, Landlord shall be held harmless for "use of municipal properties" covered under this Lease.

16. Assignment: The rights and obligations under this Lease shall inure to and be binding on the parties' respective heirs, representatives, successors and assigns. Tenant shall have the right, without consent, to assign this Lease to: (a) any entity resulting from a merger or consolidation with Tenant, (b) any entity succeeding to substantially all of the business and assets of Tenant; or (c) any entity controlled by, controlling or under common control with Tenant. Notwithstanding the foregoing, except as set forth in subsections (a), (b) and (c) above, this Lease may not be assigned without the prior written consent of Landlord, which consent shall not be unreasonably withheld.

17. Entire Agreement: This Lease constitutes the entire agreement between the parties and supersedes all prior written and oral agreements, representations, promises or understandings between the parties with respect to the subject matter hereto.

18. Counterparts: This Lease may be executed in one or more counterparts, each of which when so executed shall be an original, but all of which together shall constitute one agreement. Facsimile signatures (or other form of electronic communication, such as .pdf) shall be deemed original signatures.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals all as of the day and year first above written.

LANDLORD:
CITY OF ROCK FALLS

By _____
Mayor

ATTEST:

City Clerk

TENANT:
SURF AIR WIRELESS, LLC

By _____
Its _____

Exhibit A



(red box indicates approximate Staging Area on the Property)

EXHIBIT H

(the "Consulting Agreement")

EXHIBIT H

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT (this "Agreement") is made and entered into as of this 30th day of October, 2020 (the "Effective Date"), by and between the CITY OF ROCK FALLS, an Illinois municipal corporation (the "City"), and SURF AIR WIRELESS, LLC, a Delaware limited liability company ("Surf Air"). City and Surf Air are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

WHEREAS, City and Surf Air are parties to that certain Fiber Optic Infrastructure and Equipment Lease, dated as of October 30, 2020, (the "Lease"), providing for, among other things, the lease of the City's FiberNet System (as such term is defined in the Lease) and certain other rights of City to Surf Air in exchange for consideration in the amount and on the terms and conditions provided for in the Lease; and

WHEREAS, in connection with the execution of the Lease and the lease of the FiberNet System to Surf Air, the City has agreed to offer the services of its employee and current fiber department superintendent, A. Wayne Shafer ("Shafer"), to Surf Air to assist in the transition of the operation and management of the FiberNet System to Surf Air (all of the foregoing, the "Consulting Services"); and

WHEREAS, the Parties desires to enter into this Agreement to provide for such Consulting Services by Shafer, all upon the terms and conditions as are more specifically set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties hereto agree as follows:

SECTION 1: Recitals. The recitals to the preambles of this Agreement are true and correct and are hereby incorporated into this Section 1 as if more fully set forth herein.

SECTION 2: Term. The term of this Agreement shall begin as of the Effective Date and shall continue for a period of one (1) year (all of the foregoing, the "Term").

SECTION 3: Consulting Services. City hereby agrees to provide the Consulting Services to Surf Air by and through Shafer. The Consulting Services shall generally include, but not be limited to the following: (i) assistance with the management of the day to day operations of FiberNet; (ii) oversight of technical and administrative operations of FiberNet; (iii) assist with conversion or integration of existing FiberNet systems with those of Surf Air (iv) supervision of Surf Air support staff in relation to any of the foregoing; (v) training of Surf Air employees and staff relating to the general operation and maintenance of FiberNet, including software and equipment utilized in connection therewith; and (vi) any other matters deemed by Surf Air as necessary or expedient to the successful transition of FiberNet to Surf Air in accordance with the Asset Purchase Agreement.

SECTION 4: Compensation. Surf Air agrees to pay to City a consulting fee of SEVENTY-FIVE THOUSAND AND NO/100THS DOLLARS (\$75,000.00) for the Consulting

Services provided by Shafer (the "Consulting Fee"). The Consulting Fee shall be paid in twelve (12) equal monthly installments commencing on November 1, 2020, and shall be due and payable to City on or before the first (1st) day of each month thereafter. City shall be solely responsible for any payments for workers' compensation, disability or other insurance in connection with the provision of the Consulting Services by Shafer under this Agreement. Notwithstanding the foregoing, the Parties acknowledge and agree that Shafer may be required to undertake such travel as is reasonably necessary to fulfill the duties ascribed to him hereunder. It is agreed that any travel or other reasonable business expenses of Shafer shall be directly reimbursed by Surf Air, subject to Shafer's compliance with Surf Air's applicable travel and expense reimbursement policies. In addition to the Consulting Fee, Surf Air agrees to pay to City an amount equal to \$250.00 per month for use of the City's FiberNet vehicle currently in use by Shafer.

SECTION 5: Employee of City. It is expected that Shafer shall devote substantially all of his available time during the work week towards providing the Consulting Services to Surf Air. Notwithstanding the foregoing, Surf Air acknowledges and agrees that Shafer is and will remain an employee of City for the duration of the Term and that Shafer will, from time to time, be expected to perform such duties for the City as may be necessary for the fulfillment of his employment with City. The Parties agree to reasonably cooperate with each other to create a mutually acceptable schedule regarding Shafer's obligations hereunder. To the extent any conflict arises regarding Shafer's obligations to the City and those to be provided to Surf Air hereunder, such conflict shall be resolved in favor of the City.

SECTION 6: Termination. This Agreement shall automatically terminate upon the expiration of the Term. Notwithstanding the foregoing, this Agreement may be terminated upon the occurrence of any of the following events:

- (a) by mutual written agreement of the Parties; or
- (b) by Surf Air for "cause," which, for purposes of this Agreement, means that Surf Air, acting in good faith based upon information then known to it, determines that Shafer has engaged in or committed: (i) willful misconduct that is likely to injure the reputation, business or business relationships of Surf Air; or (ii) a material breach of this Agreement. Upon any termination of this Agreement for cause in accordance with this Section 6, City shall be entitled to be compensated for Consulting Services satisfactorily completed prior to the date of termination.

SECTION 7: Confidential Information. In performing the Consulting Services pursuant to this Agreement, Shafer may have access to information of a confidential or secret nature belonging to Surf Air that relates to Surf Air's business or that of a parent, subsidiary, affiliate, customer or supplier of Surf Air or to the business of other parties with whom Surf Air has agreed to hold information of such party in confidence (all of the foregoing, "Confidential Information"). Such Confidential Information includes but is not limited to, product development plans and goals, financial matters and budgets, trade secrets, technology, engineering, business techniques, methods and procedures, purchasing, sales and marketing strategy and data, employees and other representatives and personnel, customer and supplier data and third-party information Surf Air has agreed to keep confidential. Confidential Information

shall not include information that (i) is now or becomes public through no fault of Shafer or City, or (ii) Shafer or City already had lawfully in its possession prior to the date of this Agreement from other third parties, or (iii) for which Shafer or City receives, before any disclosure, permission in writing from Surf Air to disclose.

(a) During the Term and thereafter for a period of two (2) years, City agrees to keep confidential and not disclose to any person all Confidential Information and agrees not to use such information other than in connection with performance of the Consulting Services hereunder.

(b) All documents, data, materials, files, equipment, records, and other physical properties furnished to Shafer or City by Surf Air (including but not limited to any documents, files or materials that contain or relate to Surf Air's Confidential Information) and all work products, records, files, data, correspondence, notes, computer memory media and drawings and/or other materials made, reviewed, developed or kept by Shafer while retained by Surf Air pursuant to this Agreement ("Surf Air Property") shall be the sole and exclusive property of Surf Air, its successors and assigns. City agrees that upon the termination of this Agreement it will return all Surf Air Property and will not retain or take, without Surf Air's written consent, any Surf Air Property.

SECTION 8: Governing Law. The rights and obligations of the Parties hereunder will be construed and enforced in accordance with, and will be governed by, the laws of the State of Illinois, without regard to principles of conflict of laws.

SECTION 9: Notices. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered in person, sent by telecopier, recognized overnight delivery service or registered or certified mail with return receipt requested, postage prepaid, to the following addresses:

If to Surf Air:

Surf Air Wireless, LLC
1705 State St.
P.O. Box 1401
La Porte, IN 46352
Attn: Gregory B. Armstrong

If to City:

City of Rock Falls
603 W. 10th Street
Rock Falls, IL 61071
Attn: City Clerk

With a copy to:

Chilton, Yamber Porter, LLP
303 W. Madison
Suite 2300
Chicago, IL 60606
Attn: Mr. Randy Vickery

Notices delivered personally shall be effective upon delivery against receipt. Notices transmitted by telecopy shall be effective when received, if the burden of proving notice when notice is transmitted by telecopy shall be the responsibility of the party providing such notice. Notices

delivered by overnight mail shall be effective when received. Notices delivered by registered or certified mail shall be effective on the date set forth on the receipt of registered or certified mail, or seventy-two (72) hours after mailing, whichever is earlier.

SECTION 10: Entire Agreement. This Agreement constitutes and contains the entire agreement and understanding between City and Surf Air concerning the subject matters addressed herein and supersedes and replaces all prior negotiations and all agreements proposed or otherwise, whether written or oral, concerning the subject matter hereof.

SECTION 11: Severability. If any provision of this Agreement or the application thereof is held invalid, such invalidation will not affect other provisions or applications of this Agreement and, to this end, the provisions of this Agreement are declared severable.

SECTION 12: Amendment. This Agreement may not be amended except by an instrument in writing signed by each of the Parties hereto.

SECTION 13: Counterparts. This Agreement may be executed in one or more counterparts, each of which when so executed shall be an original, but all of which together shall constitute one agreement. Facsimile signatures (or other form of electronic communication, such as .pdf) shall be deemed original signatures.

SECTION 14: Waiver. No delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of or in any similar breach or default occurring later. No waiver of any single breach or default shall be deemed a waiver of any other breach or default occurring before or after that waiver.

(signatures of the Parties to appear on the following page)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

CITY OF ROCK FALLS,
an Illinois municipal corporation

SURF AIR WIRELESS, LLC,
a Delaware limited liability company

By _____
Mayor

By _____
Its _____

ATTEST:

City Clerk

EXHIBIT I

(the “Co-Location Agreement”)

EXHIBIT I

CO-LOCATION AGREEMENT

This Co-Location Agreement (this "Agreement") is entered into as of this 30th day of October, 2020 (the "Effective Date"), by and between the CITY OF ROCK FALLS, an Illinois municipal corporation ("Owner") and SURF AIR WIRELESS, LLC, a Delaware limited liability company ("Surf Air"). Owner and Surf Air are sometimes collectively referred to herein as the "Parties".

WHEREAS, Owner and Surf Air are parties to that certain Fiber Optic Infrastructure and Equipment Lease, dated as of October 30, 2020, (the "Lease"), providing for, among other things, the lease of the FiberNet System (as such term is defined in the Lease) and certain other rights of City to Company in exchange for consideration in the amount and on the terms and conditions provided for in the Lease; and

WHEREAS, as a condition to the execution of the Lease and the lease of the FiberNet System to Surf Air, the Parties have agreed to permit the co-location of Surf Air's Facilities (as such term is hereinafter defined) at the Premises (as such term is hereinafter defined) for the purpose of providing broadband internet access services to the residents and businesses of the City, and the general community at large; and

WHEREAS, the Parties desires to enter into this Agreement to provide for such rights and obligations, all upon the terms and conditions as are more specifically set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties hereto agree as follows:

1. Premises and Permitted Use. Owner owns those certain parcels of land and structures located within the City of Rock Falls, Illinois (collectively, the "Property") which house certain equipment racks and related space thereon, being more specifically identified as follows (all of the foregoing, the "Premises"):

1. 1109 Industrial Park Road, Rock Falls, IL 61071
Telecom Racks 1.04, 1.05 and 2.02
2. 300 Ave. A, Rock Falls, IL 61071
Telecom Racks 2.01, 2.02 and 3.01
3. 100 12th Ave., Rock Falls, IL 61071
Telecom Rack 1.01
4. 2405 14th Ave., Rock Falls, IL 61071
Telecom Rack 1.01
5. 2107 9th Ave., Rock Falls, IL 61071
Telecom Racks 1.01, 1.02 and 1.03

Subject to the terms and conditions set forth in this Agreement, Owner provides to Surf Air the right and exclusive license to use the Premises for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, a communications service facility, including, without limitation, electronic network equipment, cable, wiring, back-up power sources, related fixtures and improvements (the "Facilities") for fiber to the premise ("FTTP") operations and other related uses during the term of this Agreement (all of the foregoing, the

“Permitted Uses”). Surf Air will use the Premises only for the Permitted Uses and in a manner which will not unreasonably disturb the occupancy of Owner’s other tenants, if any. Surf Air will have unrestricted access to the Premises twenty-four (24) hours per day, seven (7) days per week. In the case of a temporary loss of power to the Premises, Surf Air may install, at its expense, gas generators, subject to Owner’s prior approval, such approval not to be unreasonably delayed, withheld, or denied.

2. Term. The initial term of this Agreement shall be for a period of twenty (20) years from the Effective Date, unless earlier terminated in accordance with the terms herein and/or applicable law (the “Initial Term”). This Agreement shall automatically renew for four (4) additional five (5) year periods thereafter (each, a “Renewal Term”, and collectively with the Initial Term, the “Term”), unless either Party notifies the other of its intent not to renew at least one hundred and twenty (120) days prior to the end of the Initial Term or the then current Renewal Term.

3. Rent. Surf Air agrees to pay to Owner the amount of FIVE HUNDRED AND NO/100THS DOLLARS (\$500.00) per month for the license granted hereunder for the duration of the Term.

4. Title and Quiet Possession. Owner represents, warrants and covenants to Surf Air and further agrees that (a) it is the owner of the Premises; (b) it has the right to enter into this Agreement; (c) the person signing this Agreement has the authority to sign; (d) Surf Air is entitled to access the Premises at all times and to the quiet possession of the Premises throughout the Term so long as Surf Air is not in default beyond the expiration of any cure period; (e) Owner will have unsupervised access to the Premises and to the Facilities; and (f) to the best of Owner’s knowledge, all zoning and similar governmental approvals necessary to operate the Premises for the Permitted Uses described above have been obtained.

5. Assignment. The rights and obligations under this Agreement shall inure to and be binding on the Parties respective heirs, legatees, personal representatives, successors and assigns. Surf Air shall have the right, without consent, to assign this Agreement to: (a) any entity resulting from a merger or consolidation with Surf Air, (b) any entity succeeding to substantially all of the business and assets of Surf Air; (c) any entity controlled by, controlling or under common control with Surf Air. Notwithstanding the foregoing, except as set forth in subsections (a), (b) and (c) above, this Agreement may not be assigned without the prior written consent of Owner, which consent shall not be unreasonably withheld.

6. Notices. All notices must be in writing and are effective only when deposited in the U.S. mail, certified and postage prepaid, or when sent via overnight delivery. Notices to Surf Air are to be sent to: Surf Air Wireless, LLC, 1705 State St., LaPorte, IN 46350, Attn: Contracts. Notices to Owner are to be sent to: 603 W. 10th Street, Rock Falls, IL 61071, Attn: City Clerk. Either Party may change its notice address upon written notice to the other.

7. Improvements. Surf Air may, at its expense and upon Owner’s consent, which consent shall not be unreasonably withheld, make improvements on the Premises as it deems necessary or desirable from time to time for the operation of the Facilities for the Permitted Uses. Upon expiration or earlier termination of this Agreement, Surf shall, within sixty (60) days from such date, remove all Facilities and restore the Premises to substantially the condition as it was on the Effective Date, except for ordinary wear and tear and casualty loss.

8. Compliance with Laws. Owner represents and warrants to Surf Air that, to the best of Owner's knowledge, the Property (including the Premises) and all improvements located thereon are in substantial compliance with building, life/safety, disability and other laws, codes and regulations of applicable governmental authorities. Surf Air will substantially comply with all applicable laws relating to its possession and use of the Premises.

9. Interference. Surf Air represents and warrants that its use of the Facilities at the Premises shall not cause any material interference with other equipment located at the Property. Owner represents and warrants that Owner knows of no interference problems with other equipment caused by the equipment currently located on the Property.

10. Utilities. Owner agrees that it will pay the cost of utilities necessary for Surf Air to operate the Facilities at the Premises for the Permitted Uses. In the event independent utilities are required for Surf Air's operations, Owner will reasonably cooperate with Surf Air in obtaining such utilities, at Surf Air's cost, from any location provided by Owner or the servicing utility, including signing any easement(s) or other instrument(s) reasonably required by the utility company. Surf Air shall be responsible for all costs related to any independent utilities necessary for the Facilities. If there is a loss of electrical service at the Premises, Surf Air may, at its expense, install and maintain a temporary gas generator at the Property for the duration of such loss of electrical service.

11. Default. If either party is in default under this Agreement for a period of thirty (30) days following receipt of written notice from the non-defaulting party, the non-defaulting party may pursue any remedies available to it against the defaulting party at law or in equity, including, but not limited to, termination of this Agreement. If a non-monetary default cannot reasonably be cured within a thirty (30) day period, this Agreement may not be terminated if the defaulting party commences action to cure the default within such period and proceeds with due diligence to fully cure the default. Notwithstanding the foregoing, an event of default shall also be deemed to have occurred and shall grant to Owner the authority to immediately terminate this Agreement if (a) Surf Air becomes insolvent; or (b) institutes or has instituted against it bankruptcy proceedings which are not dismissed within ninety (90) days of filing; or (c) makes a general assignment for the benefit of creditors; or (d) if a receiver is appointed for the benefit of its creditors; or (e) if a receiver is appointed on account of its insolvency; or (f) Surf Air defaults under the provisions of that certain Right of Way Use Agreement for Broadband Internet dated _____, 2020, by and between Owner and Surf Air, and Surf Air fails to cure such default within the applicable cure period therein.

12. Indemnity. Owner and Surf Air each indemnifies and agrees to defend the other against and hold the other harmless from any and all costs (including reasonable attorneys' fees) and claims of liability or loss which arise out of the ownership, use and occupancy of the Premises or Property by the indemnifying party. This indemnity does not apply to any claims arising from the negligence or intentional misconduct of the indemnified party. The indemnity obligations under this Section will survive the expiration or earlier termination of this Agreement.

13. Insurance. Surf Air agrees that it will procure and maintain, for the duration of the Term, a commercial general liability insurance policy with limits of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage liability. Surf Air shall provide Owner with a certificate of insurance within thirty (30) days following written request by Owner. Each party hereby waives its right of recovery against the other for any loss or damage

covered by any property insurance policies maintained by the waiving party. Each party will cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery by subrogation against the other party in connection with any property damage covered by the policy.

14. Maintenance. Surf Air will be responsible for repairing and maintaining the Facilities and any other improvements installed by Surf Air at the Premises in a proper operating and reasonably safe condition; provided, however, if any repair or maintenance is required due to negligent acts or omissions of Owner, its agents, contractors or employees, Owner will promptly reimburse Surf Air for the reasonable costs incurred by it to restore the damaged Facilities to the condition which existed immediately prior thereto. Owner will maintain and repair all other portions of the Property of which the Premises is a part in a proper operating and reasonably safe condition.

15. Disclaimer of Warranties. This Agreement provides Surf Air a license for the use of the Premises for the Permitted Uses, and such other rights incidental thereto, and does not involve a sale of goods. Owner provides the Premises and make such license on an “as-is, where-is” basis and “with all faults” and makes no warranties of any kind or nature, whether expressed or implied, with respect to the Property, the Premises, or the license granted hereunder, including, without limitation any warranties of merchantability or fitness for a particular purpose, which are all hereby expressly disclaimed.

16. Limitation of Liability. In no event shall Owner be liable to Surf Air for any indirect, special, or consequential damages, lost profits, injury to business or reputation, lost data, business or customers, the loss of prospective profits or anticipated sales or on account of expenditures, investments, or commitments incurred in connection with Surf Air’s business, which result from any breach of this Agreement by Owner. Owner shall not in any case be liable for unauthorized access or damage to, alteration, theft, destruction or loss of the Facilities, or any records, files or data therefrom.

17. Force Majeure. Neither party shall be held in default under, or in noncompliance with, the provisions of this Agreement, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of this Agreement), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Property, the Premises, or the Facilities, governmental, administrative or judicial order or regulation or other event that is reasonably beyond such party’s ability to anticipate or control. Non-compliance or default shall be corrected within a reasonable amount of time after an event of force majeure has ceased.

18. Miscellaneous. (a) This Agreement shall governed by the laws of the State of Illinois, without regard to its internal conflicts laws; (b) this Agreement constitutes the entire agreement between the Parties and supersedes all prior written and oral agreements, representations, promises or understandings between the Parties; (c) any amendments to this Agreement must be in writing and executed by both Parties; (d) if any provision of this Agreement is invalid or unenforceable with respect to any party, the remainder of this Agreement or the application of the provision to persons other than those as to whom it is held invalid or unenforceable, will not

be affected and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

19. Counterparts. This Agreement may be executed in one or more counterparts, each of which when so executed shall be an original, but all of which together shall constitute one agreement. Facsimile signatures (or other form of electronic communication, such as .pdf) shall be deemed original signatures.

WHEREFORE, the Parties have executed this Agreement as of the Effective Date.

OWNER:

SURF AIR:

**City of Rock Falls, an Illinois
municipal corporation**

**Surf Air Wireless, LLC, a Delaware
limited liability company,
d/b/a Surf Broadband Solutions**

By: _____

By: _____

Its: _____

Its: _____

EXHIBIT J
(the "IRUs")

EXHIBIT J

**CITY OF ROCK FALLS
INDEFEASIBLE RIGHT OF USE AGREEMENT
(FIBERNET)**

This Indefeasible Right of Use Agreement (this “Agreement”) is made as of the 30th day of October, 2020 by and between the City of Rock Falls, an Illinois municipal corporation (“Grantor”) and Surf Air Wireless, LLC, a Delaware limited liability company (“Grantee”).

WHEREAS, Grantor is the owner of a fiber optic communication system located in the City of Rock Falls, Illinois, which is capable of providing access to high speed internet connection and other uses in relation thereto; and

WHEREAS, Grantor is in the business of, among other things, leasing certain Dark Fibers in the Grantor Network to third parties for purposes of providing high speed internet to their customers; and

WHEREAS, Grantee desires to obtain the right to use certain Dark Fibers in the Grantor Network and Grantor desires to grant to Grantee an Indefeasible Right of Use in certain Dark Fibers in the Grantor Network subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Grantor and Grantee hereby agree as follows:

Section 1: **Definitions.** In addition to any terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

- A. “Acceptance” means Grantee’s issuance of an Acceptance Notice or failure to issue a notice of defective IRU Fibers within thirty (30) days after receipt of Optical Time-Domain Reflectometry (“OTDR”) test results from Grantor pursuant to Article III.
- B. “Acceptance Notice” means Grantee’s notice of acceptance or deemed acceptance of the IRU Fibers pursuant to Article III.
- C. “Access Point” is the physical location(s) at which Grantee may, subject to required permits and Rights, connect its telecommunications system with the IRU Fibers. Access Points may be a Grantor point of presence, regenerator site, optical amplifier site, or other designated Splice Point, with each Access Point specifically set forth in Exhibit A. Within thirty (30) days after Acceptance, Exhibit A shall be updated to reflect the actual location of the Access Points.
- D. “Associated Property” shall have the meaning set forth in Section 1.1.
- E. “Collocation Agreement” shall have the meaning set forth in Section 4.1.
- F. “Dark Fiber” means Fiber between two (2) specified locations that has no optronics or electronics attached to it.

- G. "Delivery Work" shall mean all work necessary in order to achieve connectivity and to provide OTDR test results to Grantee from Access Point to Access Point pursuant to Article III herein.
- H. "Fiber" means a glass strand or strands which is/are protected by a color coded buffer tube and which is/are used to transmit a communication signal along the glass strand in the form of pulses of light.
- I. "Fiber Optic Cable" means a collection of Fibers contained in color-coded buffer tubes with a protective outer covering, which covering includes stiffening rods and filler.
- J. "Indefeasible Right of Use" or "IRU" is an exclusive and irrevocable right to use certain Dark Fibers in Grantor's Fiber Optic Cable, subject to the terms and conditions of this Agreement.
- K. "IRU Fibers" means the Dark Fibers/Fiber Optic Cable obtained by Grantee in the Grantor Network as set forth in Exhibit A.
- L. "IRU Fee" means the amount of money Grantee shall pay Grantor for the use of the IRU Fibers.
- M. "Grantor Network" means the fiber optic communication system and all Associated Property owned or operated by Grantor.
- N. "Proportionate Share" means the percentage determined by dividing the total number of IRU Fibers by the total number of Fibers in the Grantor Network.
- O. "Rejection Notice" means the notice of rejection of one or more of the IRU Fibers given to Grantor by Grantee pursuant to Article III herein.
- P. "Relocating Authority" shall have the meaning set forth in Section 24.3.
- Q. "Rights" means any and all permits, rights, and right-of-way agreements, easements, licenses, leases, rights or other agreements necessary for the occupancy and use by either party of poles, conduit, cable, wire, physical plant facilities, and/or access to real property underlying the Fiber Optic Cable.
- R. "Tax" or "Taxes" means all taxes, fees, levies, impositions, imposed duties, charges, or withholdings of any nature, including without limitation ad valorem, real property, gross receipts, taxes and franchise, license and permit fees, together with any penalties, fines or interest thereon arising out of the transactions contemplated by this Agreement and/or imposed upon the IRU Fibers, Grantor Network, or any part thereof, by any governmental agency or taxing authority.

ARTICLE I RIGHT TO USE OF GRANTOR FIBER

Section 1.1: **Grant of IRU.** Subject to the terms and conditions of this Agreement, Grantor grants to Grantee an IRU in certain Dark Fibers in the Grantor Network more specifically described on

Exhibit A, attached hereto. The IRU includes a non-exclusive right to use tangible and intangible Grantor property in order to use the IRU Fibers, including but not limited to cable sheathing, troughing, pedestals, slack containers, and other related equipment necessary for the operation and use of the IRU Fibers as contemplated herein (collectively, the “Associated Property”), but excluding any electronic or optronic equipment, which shall be provided by Grantee at its sole cost. Grantee agrees to be bound by all applicable laws, regulations and Rights agreements.

Section 1.2: Non-Interference. Grantee (or any sub-grantee) shall not use the IRU Fibers in a manner that materially interferes in any way with, or otherwise adversely affects the use of the Grantor Network, Fibers, Fiber Optic Cable, (or any equipment or element thereof). Grantor shall take reasonable measures not to use any other Fibers in the Grantor Network in a way that materially interferes with or would adversely affect Grantee’s use of the IRU Fibers.

Section 1.3: Grantor Property. The Parties agree that title to the IRU Fibers, Grantor’s Fiber Optic Cable, and the Grantor Network (collectively, the “Grantor Property”) is vested solely in Grantor. Grantee shall not individually, or permit others to, access, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Grantor Property without the prior, written consent of Grantor. The Parties agree that no party other than Grantor, or a contractor under the direct supervision of Grantor, shall be permitted to perform maintenance or splicing. Grantor Property is for use in connection with the IRU and shall not be used for any purpose other than that for which Grantor provided it. In the event that Grantee, or Grantee’s representative, agent or any other party associated with Grantee violates this provision, in addition to actual damages sustained by Grantor, exclusive of indirect, incidental, consequential, special, or punitive damages for breach by Grantee, Grantee shall be responsible to pay Grantor for all reasonable damages to Grantor Property and also any ongoing service charges in the event that maintenance or inspection of Grantor Property is required as a result of Grantee’s violation of this provision. In no event shall Grantor be liable to Grantee or any other entity for interruption of service or for any other loss, cost or damage caused or related to Grantee’s unauthorized tampering with the Grantor Property. In the event of any violation of this provision, Grantor reserves the right to terminate this Agreement, and Grantee shall forfeit all monies paid by Grantee hereunder to date.

ARTICLE II TERM

Section 2.1: Term of Agreement. The initial term of this Agreement shall commence on the Effective Date (as defined in Section 3.3) and shall continue thereafter for the period of time set forth in Exhibit A unless sooner terminated as provided below (all of the foregoing, the “Initial Term”).

Section 2.2: Renewal Terms. Either party may terminate this Agreement at the end of the Initial Term by giving written notice of such termination to the other party at least ninety (90) days prior to the end of such term. If neither party gives such notice of termination, this Agreement shall automatically continue in force from year to year until terminated by either party upon ninety (90) days written notice (each a “Renewal Term”). The Initial Term and any applicable Renewal Term(s) are collectively referred to herein as the “Term”.

Section 2.3: Survival of Certain Obligations. The expiration or termination of this Agreement shall not affect the rights or obligations of any party with respect to any payments of costs incurred prior to the date of termination or pursuant to Article IX (Taxes); Article X (Liability); Article XVI (Default); and Article XXIII (Rights).

Section 2.4: Termination/Expiration; Restoration. Within sixty (60) days from the expiration or earlier termination of this Agreement, Grantee shall remove, or cause to be removed, all Grantee owned Fiber Optic Cable and related equipment used in connection with Grantee's use of the IRU Fiber (all of the foregoing, collectively, the "Grantee Property"), and shall return the Access Point, Grantor Fiber Optic Cable, and Associated Property used in connection with the IRU Fiber to substantially the same condition as it was in as of the Effective Date. Grantee shall provide Grantor with reasonable notice of its intended removal process, including the dates and times during which Grantee will remove or anticipates removing Grantee Property, in order for Grantor to supervise the same for compliance with the terms of this Agreement.

ARTICLE III ACCEPTANCE AND DOCUMENTATION

Section 3.1: Acceptance. Grantee shall be deemed to have accepted and to be in possession of the IRU Fibers upon the Effective Date subject to, and after completion of, the procedures set forth below.

Section 3.2: Test Results. After receipt of Grantee's Deposit pursuant to Section 5.2, Grantor shall complete the Delivery Work and provide Access Point to Access Point OTDR test results for the IRU Fibers. In addition, Grantee may perform a visual inspection, subject to any relevant Rights agreements, of all above-ground Access Points and visible Grantor Fiber Optic Cable construction. Within thirty (30) days after receiving the IRU Fiber test results, Grantee shall (i) determine whether the IRU Fiber test results conform to the requirements of the Testing and Acceptance Standards attached hereto as Exhibit B, and (ii) provide an Acceptance/Rejection Notice in the form of the attached Exhibit C. Issuance of an Acceptance Notice or failure to issue an Acceptance/Rejection Notice within the thirty (30) day period shall constitute Grantee's unconditional and irrevocable Acceptance of the IRU Fibers for all purposes under this Agreement.

Section 3.3: Acceptance/Rejection Procedure. If Grantee rejects the IRU Fibers by providing a Rejection Notice within the applicable thirty (30) day period in accordance with Section 3.2, upon receipt thereof, Grantor shall promptly undertake to investigate, and if necessary correct, any deficiency or non-conformity in the IRU Fibers. Thereafter, Grantor shall again conduct testing of the IRU Fibers from Access Point to Access Point. The foregoing procedure, as described in Section 3.2, shall apply again and successively thereafter until Grantor has remedied all material defects or significant failures and Grantor has received written notice from Grantee that the IRU Fiber meets the requirements of this Agreement. However, Grantee shall deliver to Grantor any subsequent Rejection Notices after the initial thirty (30) day period within thirty (30) business days after receipt of the relevant test results from Grantor, or Grantee shall be deemed to have accepted the IRU Fibers.

If Grantee issues a Rejection Notice where Grantor reasonably believes the IRU Fiber test results conform to the Testing and Acceptance Standards, the parties shall work together to do cooperative testing, sharing the cost equally, to determine whether the test results conform to specifications. Grantee shall not unreasonably withhold its acceptance of the IRU Fiber. The date of acceptance of the IRU Fibers shall constitute the "Effective Date."

Section 3.4: Record Drawings. Upon request, but not before one hundred twenty (120) days after Acceptance, Grantor shall provide record drawings regarding the as-built Fiber Optic Cable containing the IRU Fibers. The record drawings shall contain the technical specifications of the IRU

Fibers, associated splices and other details consistent with industry standards. At the request of Grantee, and at Grantee's cost, the record drawings may also be provided in electronic format if possible using reasonable efforts.

ARTICLE IV PERMITS, RIGHTS FEES, AND COLLOCATION AGREEMENTS

Section 4.1: Collocation. Grantee shall be responsible for entering into any collocation agreements with local exchange carriers and interexchange carriers to use its IRU Fibers. In the event that Grantee wishes to co-locate in Grantor facilities, or in facilities owned by any third party as a sub-tenant Lessee of Grantor, the parties shall enter into a separate collocation agreement for each site substantially in the form of a Collocation Services Addendum (a "Collocation Agreement"), which may be attached as Exhibit D subject to obtaining any required third party consents, including the consent of any landlords of Grantor. In the event that Grantor, in its discretion, decommissions any collocation site, Grantor will not be responsible for any costs associated with removal or relocation of Grantee's facilities or the IRU Fibers.

Section 4.2: Permits. Grantee shall be responsible for the appropriate government filings, licenses, or other requirements to place the IRU Fibers into operation, including, but not limited to any necessary municipal licenses and/or franchise agreements other than those Rights agreements discussed in Article XXIII herein and which shall remain the responsibility of Grantor.

Section 4.3: Rights Fees. Consistent with Article IX herein, Grantee shall pay its Proportionate Share of Rights fees as required from time to time by property owners, government agencies, taxing authorities, or otherwise imposed by law or contract and which relate to Grantor's Fiber Optic Cable containing the IRU Fibers. Upon written request therefor, Grantor shall provide a reasonable accounting for same.

ARTICLE V PAYMENT

Section 5.1: IRU Fee. Upon Acceptance of the IRU Fibers pursuant to the procedures set forth in Article III herein, and as further consideration for the grant of the IRU by Grantor to Grantee, Grantee shall pay Grantor the IRU Fee set forth in Exhibit A. The IRU Fee shall be calculated per fiber per mile for the applicable Grantor Fiber Optic Cable in which Grantee receives an IRU hereunder and shall specifically include slack loops and similar lengths necessary for proper splicing and maintenance. The actual route miles used to calculate the IRU Fee shall be set forth in Exhibit A; provided that the total IRU Fee shall be adjusted to take into account a differing amount calculated pursuant to the immediately preceding sentence in accordance with final OTDR tests. The distance used to calculate the IRU Fee hereunder using the OTDR distances from Access Point to Access Point shall be conclusive and binding on the parties for all purposes hereunder.

Section 5.2: Deposit. Grantee shall pay a deposit of twenty-five percent (25%) of the total IRU Fee to Grantor before the Delivery Work is completed and before Access Point to Access Point OTDR test results for the specific IRU Fibers are completed. The deposit amount will be defined in Exhibit A. The remainder of the IRU Fee shall be paid within sixty (60) days after Acceptance of the IRU Fibers.

Section 5.3: Method of Payment. All payments to Grantor set forth in this Agreement, except as otherwise provided herein, are due and payable within sixty (60) days of Grantee's receipt of an invoice for the same.

Section 5.4: Maintenance and Repair Fees. Payment for maintenance and repairs performed under this Agreement shall be made as follows:

- (a) After Acceptance, Grantee shall pay Grantor a monthly routine maintenance fee as set forth in Exhibit A within thirty (30) days after receipt of invoice. Routine maintenance fees shall be adjusted every year by using the Consumer Price Index (all city index), published by the Bureau of Labor Statistics, United States Department of Labor ("CPI"). The routine maintenance fee shall adjust by the same percentage of increase that the CPI published on each anniversary date has increased over the CPI published on the Effective Date of this Agreement, plus one percent (CPI+1%).
- (b) Grantee shall pay its Proportionate Share for emergency maintenance, repairs or relocation, payable within sixty (60) days after Grantee's receipt of invoice. Upon Request from Grantee, Grantor will provide Grantee reasonable documentation to substantiate the cost of emergency maintenance or relocation.

Section 5.5: Delivery and Splicing Fees. All splicing at the Access Points in order for Grantee to achieve end-to-end connectivity thereafter shall be billed to and paid by Grantee within sixty (60) days after invoice.

Section 5.6: Overdue Payments. If Grantee fails to make any payment under this Agreement when due, such amount shall accrue interest from the date such payment is due until paid, including accrued interest compounded monthly, at an annual rate of six percent (6%). If the aforementioned rate exceeds the maximum rate allowed by applicable law, then the interest rate made applicable herein shall be the maximum rate allowed by law.

ARTICLE VI MAINTENANCE AND REPAIRS

Section 6.1: Procedures. The escalation and call-out list for maintenance and repair communications is set forth on Exhibit E. Grantor warrants that the IRU Fiber will be maintained in accordance with prevailing telecommunications industry standards, and with the Routine Maintenance Standards set forth in the attached Exhibit F.

Section 6.2: Routine and Emergency Maintenance. All routine maintenance and repair functions and emergency maintenance and repair functions, including "one-call" responses, cable locate services, and necessary relocation of the Grantor Fiber Optic Cable containing the IRU Fibers, shall be performed by Grantor or its designee.

- (a) **Emergency Maintenance.** Grantor shall respond to any failure, interruption or impairment in the operation of the IRU Fibers within four (4) hours after receiving a report of any such failure, interruption or impairment. Grantor shall use its best efforts to perform maintenance and repair to correct any failure, interruption or impairment in the operation of the IRU Fibers within eight (8) hours.

(b) Routine Maintenance. Grantor shall schedule and perform periodic maintenance and repair checks and services as set forth in the Routine Maintenance Standards (Exhibit F). Additional maintenance may be performed from time to time on the IRU Fibers at Grantor reasonable discretion, or upon Grantee's request with reasonable advance notice to Grantor.

Section 6.3: Notice of Repair. Except when implementation of an emergency repair situation would be delayed by the following notice requirements, Grantor shall provide advance notice to Grantee of maintenance or repairs that may affect the IRU Fibers.

(a) Emergency Maintenance. Grantor shall provide at least two (2) hours advance notice regarding repairs that may affect Grantee's IRU Fibers. Notice shall be given in the method specified for Routine Maintenance in subsection (b) below.

(b) Routine Maintenance. Grantor shall use its best efforts provide at least ten (10) calendar days advance notice regarding any maintenance or repairs that may affect Grantee's IRU Fibers by submitting an email notification to Grantee.

Section 6.5: Maintenance of Relocated Fibers. In the event that Grantee acquires an IRU in relocated fibers pursuant to this Agreement, Grantor shall continue to provide maintenance and repair services in the replacement fibers according to the terms herein.

Section 6.6: Cooperation Regarding Maintenance and Repair. Grantor and Grantee acknowledge and agree that Grantee may have suitable equipment, material and manpower available to assist with any maintenance, repair or relocation of the IRU Fibers necessary pursuant to this Agreement. Grantee agrees that it shall use reasonable efforts to cooperate with and assist Grantor in the completion of such maintenance, repair or relocation, and that upon such occurrence it shall do so at no cost to either party.

ARTICLE VII SPLICING

Section 7.1: Splicing by Grantor Only. Upon Acceptance and payment of the balance of the IRU Fee and any applicable delivery charges, Grantee's lateral or other Fibers beyond the Access Points may be spliced into the Grantor Fiber Optic Cable at the Access Points pursuant to the procedures set forth on Exhibit B. In order to maintain the integrity of Grantor's Fiber Optic Cable and Grantor's Network, Grantor, or a contractor operating under its direction, shall perform all splicing performed on the Grantor Fiber Optic Cable at the Access Points, at Grantee's expense.

ARTICLE VIII REPRESENTATIONS AND WARRANTIES

Section 8.1: Representations and Warranties. Each party represents and warrants to the other with respect to the rights and obligations contained herein:

- (a) it has the full right and authority to enter into, execute, deliver and perform its obligations under this Agreement;
- (b) this Agreement constitutes a legal, valid, binding obligation enforceable against such party in accordance with its terms; and

- (c) the execution of and performance under this Agreement shall not violate any applicable existing regulations, rules, statutes or court orders of any local, state or federal government agency, court or body.

Section 8.2: Limitation on Liability and Disclaimer of Warranties. GRANTOR WARRANTS THAT GRANTOR'S FIBER OPTIC CABLE AND FIBERS SHALL HAVE BEEN CONSTRUCTED IN ACCORDANCE WITH PREVAILING INDUSTRY STANDARDS AND SHALL BE FREE OF MATERIAL DEFECTS IN MATERIALS AND WORKMANSHIP FOR A PERIOD OF THIRTY (30) DAYS FROM ACCEPTANCE THEREOF BY GRANTEE. GRANTOR MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO GRANTOR'S FIBER OPTIC CABLE OR THE IRU FIBERS. THE FOREGOING WARRANTY CONSTITUTES THE ONLY WARRANTY WITH RESPECT TO GRANTOR'S FIBER OPTIC CABLE AND THE IRU FIBERS. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. GRANTOR SHALL IN NO EVENT BE LIABLE TO GRANTEE FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER FOR ANY REASON HEREUNDER.

Section 8.3: Vendor Warranties. In addition to the foregoing limited warranties, Grantor hereby assigns to Grantee, and Grantee shall have the benefit of, any and all vendors', manufacturers', contractors' and suppliers' warranties with respect to the material in the Fiber Optic Cable, Fiber, and/or associated property supplied by Grantor.

ARTICLE IX TAXES

Section 9.1: Grantee Responsibility. Upon Grantee's Acceptance of the IRU Fibers, Grantee shall be responsible for any and all sales, use, income, gross receipts, real or personal property or other Tax imposed on Grantor due to Grantee's use of the IRU Fibers.

Section 9.2: Grantor Responsibility. Grantor shall be responsible for and shall timely pay any and all Taxes and impositions with respect to the construction or operation of Grantor's Network, which Taxes or impositions are imposed or assessed during the Term with respect to any of Grantor's Fiber Optic Cable subject to this Agreement. Notwithstanding the foregoing obligations, Grantor shall have the right to challenge any such Tax or imposition so long as the challenge of such Tax or imposition does not materially adversely affect the rights to be delivered to Grantee pursuant hereto.

Section 9.3: Tax Cooperation. Grantor and Grantee acknowledge and agree that it is their mutual objective and intent to (i) minimize, to the extent feasible, the administrative expenses associated with and the aggregate Taxes and impositions payable with respect to the IRU and the IRU Fibers and (ii) share such Taxes according to their respective interests in the IRU Fibers and Grantor's Fiber Optic Cable, and that they will cooperate with each other and coordinate their mutual efforts to achieve such objectives in accordance with the provisions of this Article.

Section 9.4: Payment Exclusive of Taxes. All payments made by Grantee to Grantor hereunder shall be made without any deduction or withholding for or on account of any Tax, duty or other charges of whatever nature imposed by any taxing or government authority.

ARTICLE X LIABILITY

Section 10.1: Limitation of Liability. Neither Grantor nor Grantee shall be liable to the other for any indirect, special, punitive or consequential damages, including, but not limited to, any claim from any customer for loss of services, arising under this Agreement or from any breach or partial breach of the provisions of this Agreement or arising out of any act or omission of either party hereto, its directors, officers, employees, servants, elected officials, contractors and/or agents. Both Grantor and Grantee shall include in any agreement with any third party relating to the use of Grantor's Fiber Optic Cable or Grantee's IRU Fibers a waiver by such third party of any claim for indirect, special, punitive or consequential damages, including, but not limited to, any claim from any client or customer for loss of services, arising out of or as a result of any act or omission by either party hereto, its directors, officers, employees, servants, contractors and/or agents.

Section 10.2: Grantor Indemnification. Subject to the provisions of Section 10.1, Grantor hereby agrees to indemnify, defend, protect and hold harmless Grantee and its employees, officers and directors, from and against, and assumes liability for: (i) any injury, loss or damage to any person, tangible property or facilities of any person, including reasonable attorneys' fees and costs, to the extent arising out of or resulting from the negligence or willful misconduct of Grantor, its officers, employees, servants, affiliates, and agents arising out of or in connection with the performance or omission by Grantor of its obligations or the exercise by Grantor of its rights under this Agreement; and (ii) any claims, liabilities or damages arising out of any violation by Grantor of any regulation, rule, statute or court order of any governmental authority in connection with the performance or omission by Grantor of its obligations or the exercise by Grantor of its rights under this Agreement.

Section 10.3: Grantee Indemnification. Subject to the provisions of Section 10.1, Grantee hereby agrees to indemnify, defend, protect and hold harmless Grantor, and its employees, officers and directors, from and against, and assumes liability for: (i) any injury, loss or damage to any person, tangible property or facilities of any person, including reasonable attorneys' fees and costs, to the extent arising out of or resulting from the negligence or willful misconduct of Grantee, its officers, employees, servants, affiliates, and agents arising out of or in connection with the performance or omission by Grantee of its obligations or the exercise by Grantee of its rights under this Agreement; and (ii) any claims, liabilities or damages arising out of any violation by Grantee of any regulation, rule, statute or court order of any governmental authority in connection with the performance or omission by Grantee of its obligations or the exercise by Grantee of its rights under this Agreement.

Section 10.4: Notice of Claims. Grantor and Grantee agree to promptly provide each other with notice of any claim which may result in an indemnification obligation hereunder. The indemnifying party may defend such claim with counsel of its own choosing provided that no settlement or compromise of any such claim shall occur without the consent of the indemnified party, which consent shall not be unreasonably withheld or delayed.

Section 10.5: Actions Against Third Parties. Nothing contained herein shall operate as a limitation on the right of either party hereto to bring an action for damages, including consequential damages, against any third party based on any acts or omissions of such third party as such acts or omissions may affect the operation or use of Grantor's Fiber Optic Cable, or any IRU Fibers; and each party hereto shall assign such rights or claims, execute such documents and take whatever actions as may be reasonable and necessary to enable the injured party to pursue any such action against such third party.

Section 10.6: Survival of Indemnifications. Grantor and Grantee each expressly recognize and agree that its obligation to indemnify, defend, protect and hold the other harmless is not a material obligation to the continuing performance of its other obligations, if any, hereunder. In the event that a party shall fail for any reason to so indemnify, defend, protect and save the other harmless, the injured party hereby expressly recognizes that its sole remedy in such event shall be the right to bring legal proceedings against the other party for its damages as a result of the other party's said failure to indemnify, defend, protect and save harmless. These obligations shall survive the expiration or termination of this Agreement for a period of one (1) year.

ARTICLE XI FORCE MAJEURE

Section 11.1: Force Majeure. The obligations of the parties (except for the payment of money hereunder by Grantee) are subject to force majeure and neither party shall be in default under this Agreement if any failure or delay in performance is caused by strike or other labor dispute; accidents; acts of God; fire; flood; earthquake; lightning; unusually severe weather; material or facility shortages or unavailability not resulting from such party's failure to timely place orders therefor; lack of transportation; legal inability to access property; acts of any governmental authority; government codes, ordinances, laws, rules and regulations or restrictions; condemnation or the exercise of rights of eminent domain; war or civil disorder; or any other cause beyond the reasonable control of either party hereto. The excused party shall use its best efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. Notification of any such event or cause shall in all cases be given by the excused party to the other and, when possible, of the estimated duration.

ARTICLE XII RELOCATION OF CABLE

Section 12.1: Relocation. If after the Effective Date, Grantor is required to, or reasonably determines that it is required to, relocate or replace its Fiber Optic Cable or any of the appurtenant facilities used or required in providing the IRU, (whether by act of nature, government, or grantor of any Right) then, so long as such work is not necessitated by a breach of Grantor's obligations hereunder, Grantee shall reimburse Grantor for Grantee's Proportionate Share of such costs, including, without limitation, Fiber Optic Cable acquisition, splicing, and testing, including overhead. Grantor, upon written request, shall deliver to Grantee updated record drawings with respect to any relocated portion of the Fiber Optic Cable upon request but no earlier than one hundred twenty (120) days following such relocation. Upon completion of any such relocation and payment therefor by Grantee, Grantee shall be deemed have an IRU in and to the replacement Fibers as set forth in Article I herein.

Section 12.2: Notice of Relocation. Grantor shall give Grantee thirty (30) days prior notice of any such relocation, if possible, and shall have the obligation to proceed with such relocation, including, but not limited to, the right to determine the extent of, the timing of, and methods to use for such relocation.

Section 12.3: Right to Review. Grantor shall have the right to determine the timing, means, method and extent of any relocation hereunder; provided however, that Grantee shall have the right to review the relocation plans of Grantor fourteen (14) days prior to any relocation and shall have the

right to have a representative present at the time Grantor relocates the Fiber Optic Cable containing the IRU Fibers.

ARTICLE XIII INSURANCE

Section 13.1: Insurance Requirements. Each Party, and any contractor employed by the Party to work on the Fiber Optic Cable and/or Fibers, shall maintain insurance for the duration of this Agreement, and for three (3) years after the termination of this Agreement (in the case of Grantee) or for three (3) years after the termination of a contractor's work on the IRU Fibers and/or Grantor's Fiber Optic Cable (in the case of a contractor), as follows:

- (a) Workers' Compensation Insurance in such amounts as may be required by the law of the state or states in which the services are to be provided and Employers Liability Insurance with the limits of \$1,000,000 for each accident, including occupational disease coverage with limits of \$1,000,000 for each employee, with a \$1,000,000 policy limit.
- (b) Comprehensive General Liability Insurance, including premises, operations, products and completed operations, contractual, broad form property damage, independent contractors and personal injury with the following minimum limits: Personal Injury - \$1,000,000 each person and \$1,000,000 each accident, and Property Damage - \$1,000,000 each accident.
- (c) Automobile Liability Insurance for owned, hired and non-owned autos: \$1,000,000 combined single limit bodily injury/property damage.
- (d) Excess or Umbrella Insurance applicable to all of the coverages required in this section, except for the Workers' Compensation Insurance required in subparagraph (a) above (but such coverage shall be applicable to the required Employers Liability Insurance), with policy limits of at least \$2,000,000 per occurrence.

Section 13.2: Grantor as Additional Insured. Grantor shall be included as an additional insured on a primary, non-contributory basis on all policies specified in Section 13.1. Such additional insurance shall apply to any and all claims arising out of Grantor's or a contractor's work, operations or products; additional insurance provisions which apply only to claims arising out of the named insured's negligence or which otherwise apply only to vicarious liability are not acceptable.

Section 13.3: Proof of Insurance. Failure of either Party to enforce the insurance requirements of this Article XIII shall not relieve the Party of its obligation to maintain the required coverage. Upon request, either Party shall provide proof of insurance to the other. Unless otherwise agreed in writing, all insurance policies required shall be obtained and maintained with companies rated A or better by Best's Key Guide.

ARTICLE XIV CONDEMNATION

Section 14.1: Notice of Taking. Upon its receipt of a formal notice of condemnation or taking with respect to Grantor's Fiber Optic Cable or the Rights in or upon which the Grantor's Fiber Optic Cable has been installed, Grantor shall notify Grantee within thirty (30) days of any such

condemnation proceeding filed against Grantor's Fiber Optic Cable, including the IRU Fibers, or the Rights in or upon which the IRU Fibers have been installed.

Section 14.2: Costs. It is expressly recognized and understood by Grantee that relocation costs resulting from any such condemnation proceeding may not be fully reimbursed by the condemning authority and, if Grantor relocates the IRU Fibers, Grantee shall pay its Proportionate Share of all costs associated with the relocation of the IRU Fibers in excess of such costs which were reimbursed by the condemning authority. Notwithstanding, if the IRU Fibers are relocated by Grantor, Grantee shall pay to Grantor all condemnation awards given to Grantee, if any, that relate to the relocation of the IRU Fibers and thereafter Grantee shall be deemed to have an IRU in and to the replacement Fibers as set forth in Article I herein.

ARTICLE XV CONFIDENTIALITY

Section 15.1: Confidential Information. Grantor and Grantee shall agree to keep the terms and substance of this Agreement confidential, and shall refrain from using or disclosing any confidential information of the other party that may be shared pursuant to this Agreement for any purpose not specifically authorized herein. Notwithstanding the foregoing, Confidential Information shall not be deemed to include information that (1) is publicly available or in the public domain at the time disclosed to the Receiving Party; (2) is or becomes publicly available or enters the public domain through no fault of the Receiving Party or its representatives; (3) is rightfully communicated to the receiving party by persons not bound by confidentiality obligations with respect thereto; (4) is already in the receiving party's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (5) is independently developed by the receiving party; (6) is approved for release or disclosure by the disclosing party without restriction; or (7) is required by law or court order to be disclosed, in which event the receiving party shall immediately notify the disclosing party in writing in order to enable the disclosing party to take appropriate measures to protect the confidentiality of the confidential information. The parties agree and acknowledge that Grantor is a governmental body, and as such, is subject to comply with certain disclosures of information pursuant to the Freedom of Information Act (FOIA) and such other statutory requirements such as the Open Meetings Act (OMA). It is hereby expressly agreed that Grantor shall not be liable to Grantee, and it shall not be considered a breach of this Agreement, in the event Grantor is required to disclose certain information that may consist of Confidential Information pursuant to the OMA or any lawful FOIA request. The foregoing exceptions relating to FOIA and OMA shall similarly apply to Grantee to the extent said Grantee is a governmental body subject to such laws.

ARTICLE XVI DEFAULT

Section 16.1: Notice and Cure. Neither party shall be in default under this Agreement unless and until the other party shall have given the defaulting party written notice of such default and the defaulting party shall have failed to cure the default within ten (10) days after written receipt of such notice; provided, however, that where a default cannot be reasonably cured within the ten (10) day period, if the defaulting party shall promptly proceed to cure the default with due diligence, the time for curing the default shall be extended for a period of up to sixty (60) days from the date of receipt of the default notice.

With a copy to: Chilton Yambert Porter, LLP
Attn: Randall G. Vickery
303 W. Madison Street; Suite 2300
Chicago, IL 60606

ARTICLE XVIII ASSIGNMENT, SUCCESSION

Section 18.1: Assignment. Grantee shall not assign this Agreement, in whole or in part, to any other party without prior written notice to and written consent of Grantor, in Grantor's sole and absolute discretion.

Section 18.2: Binding Effect. Subject to the provisions of this Article, each of the parties' respective rights and obligations hereunder shall be binding upon and shall inure to the benefit of the parties hereto and each of their respective permitted successors and assigns.

ARTICLE XIX GOVERNING LAW

Section 19.1: Prior Laws and Agreements. This Agreement shall be interpreted and construed in accordance with the laws of the State of Illinois, without regard to its conflict of laws principles. Venue shall be appropriate in a court of competent jurisdiction residing in Whiteside County, Illinois.

ARTICLE XX ACKNOWLEDGEMENT REGARDING USE AND ENCUMBRANCES

Section 20.1: No Encumbrances. Grantee agrees and acknowledges that it has no right to use any of the Fibers, other than the IRU Fibers, included in the Grantor Fiber Optic Cable or otherwise incorporated into Grantor's Network and that Grantee shall keep any and all of Grantor's Network, other than the IRU Fibers, free from any liens, rights or claims of any third parties whatsoever.

ARTICLE XXI NO PARTNERSHIP/JOINT VENTURE

Section 21.1: No Partnership. The parties agree that this Agreement does not create a partnership between, or a joint venture of the Grantor and Grantee.

ARTICLE XXII OPERATIONS

Section 22.1: Responsibility for Operations. Subject to the provisions of this Agreement, each party shall have responsibility for determining any network and service configurations or designs, routing configurations, rearrangement or consolidation of channels or circuits and all related function with regard to the use of that party's Fiber.

Section 22.2: Responsibility for Optronics. Grantee acknowledges and agrees that Grantor is not supplying nor is Grantor obligated to supply to Grantee any optronics or electronics or optical or

electrical equipment at any Grantee site, all of which are the sole responsibility of Grantee; nor is Grantor responsible for performing any work other than as specified in this Agreement or for providing other facilities, including, without limitation, generators, batteries, air conditioners, fire protection, and monitoring and testing equipment at any Grantee site, unless specifically otherwise agreed in writing.

ARTICLE XXIII RIGHTS

Section 23.1: **Required Rights.** Grantor agrees to obtain and maintain in full force and effect for and during the Term all rights, licenses, permits, authorizations, rights-of-way, easements and other agreements which are necessary for Grantor to obtain in order to permit Grantor to construct, install and keep installed, and maintain the IRU Fibers in accordance with this Agreement and to convey the IRU in the IRU Fibers to Grantee and all other rights under this Agreement pursuant to the IRU (collectively, the “**Required Rights**”). To the extent necessary, Grantee shall obtain, prior to the commencement of the Term, and maintain in full force and effect for and during the Term all rights, licenses, permits, authorizations, franchises and other approvals which are necessary for Grantee to obtain in order to permit Grantor to grant the IRU to Grantee and for Grantee to use the IRU Fibers.

Section 23.2: **Notice; Cure.** In the event Grantor shall receive notice from any grantor or provider of a Required Right that Grantor has failed to observe or perform its obligations under such Required Right, Grantor shall give written notice to Grantee and Grantee may, at its option and after providing Grantor with a reasonable opportunity to cure the same, subject to the terms and provisions of the Required Right and the ability of third parties to cure defaults of Grantor thereunder, cure or correct such failure.

Section 23.3: **Relocation.** If Grantor is required (i) by any governmental authority under the power of eminent domain or otherwise; (ii) by the grantor or provider of any Required Right; (iii) by any other person having the authority to so require (each a “**Relocating Authority**”); or (iv) by the occurrence of any force majeure event, to relocate the Fiber Optic Cable, Fibers, or associated equipment, Grantor shall have the right to either proceed with such relocation, including, but not limited to, the right, in good faith, to reasonably determine the extent and timing of, and methods to be used for, such relocation, or to pay such amounts to the Relocating Authority as are necessary to avoid the need for such relocation. Grantee shall be kept fully informed of all determinations made by Grantor in connection with such relocation, and any such relocation shall be constructed substantially in accordance with the specifications set forth herein, shall incorporate Fiber meeting or exceeding the specifications set forth herein, and be subject to Acceptance testing.

Section 23.4: **Right to Contest.** Grantor shall have the right to contest any legal or equitable challenge relating to the Rights. If Grantee agrees in writing to join Grantor in any such contest the out-of-pocket costs and expenses (including, without limitation, reasonable attorney's fees and expenses) incurred by Grantor in any such contest shall be shared by Grantee and Grantor by their Proportionate Shares.

ARTICLE XXIV MISCELLANEOUS

Section 24.1: **Headings.** The headings of the Articles and Sections in this Agreement are strictly for convenience and shall not in any way be construed as amplifying or limiting any of the terms, provisions or conditions of this Agreement.

Section 24.2: Construction. In construction of this Agreement, words used in the singular shall include the plural and the plural the singular, and "or" is used in the inclusive sense, in all cases where such meanings would be appropriate.

Section 24.3: Severability. No provision of this Agreement shall be interpreted to require any unlawful action by either party. If any Article or clause of this Agreement is held to be invalid or unenforceable, then the meaning of that Article or clause shall be construed so as to render it enforceable to the extent feasible. If no feasible interpretation would save the section or clause, it shall be severed from this Agreement with respect to the matter in question, and the remainder of the Agreement shall remain in full force and effect. However, in the event such Article or clause is an essential element of the Agreement, the parties shall promptly negotiate a replacement section or clause that will achieve the intent of such unenforceable section or clause to the extent permitted by law.

Section 24.4: Entire Agreement; Amendment. This Agreement, and any Exhibits referenced and attached hereto or to be attached hereto, including any other agreement or exhibit incorporated by reference, constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede any and all prior negotiations, understandings and agreements with respect hereto, whether oral or written. This Agreement may be amended only by a written instrument executed by the party against whom enforcement of the modification is sought.

Section 24.5: Non-Waiver. No failure to exercise and no delay in exercising, on the part of either party hereto, any right, power or privilege hereunder shall operate as a waiver hereof, except as expressly provided herein. Any waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless and until agreed to in writing by both parties.

Section 24.6: Performance. All actions, activities, consents, approvals and other undertakings of the parties in this Agreement shall be performed in a reasonable and timely manner.

Section 24.7: Well Known Meanings. Unless expressly defined herein, words having well known technical or trade meanings shall be so construed.

Section 24.8: Counterparts. This Agreement may be executed simultaneously, including via facsimile, in one or more counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

(signatures of the parties to appear on the following page)

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

GRANTOR:

CITY OF ROCK FALLS, an
Illinois municipal corporation

By: _____

GRANTEE:

SURF AIR WIRELESS, LLC, a
Delaware limited liability company

By: _____

Its: _____

Exhibit A

Term of Agreement: _____ years (tied to payment schedule/franchise)

Access Point Locations:

Tie cables/panels will be installed at City PoPs providing access to IRU fiber (ring, trunk and select city drops.	
Other OSP NAPS (Network Access Points) will be created on 12 count assignments based on mutual considerations.	

Description of Fiber Optic Cable Route Segment(s):

NUMBER OF IRU FIBERS	RING OR END DEMARCATION POINTS OF FIBER OPTIC CABLE ROUTE SEGMENTS
Substantially as depicted in Exhibit A-1	

Additional Provisions:

Grantor retains all maintenance expense, JULIE and restoration responsibilities.

IRU Fee (\$/Fiber/mile): (\$ 0 /fiber/mile X _____ fibers X _____ miles)

Total IRU Fee: \$ 0 _____

Initial IRU Deposit (25% of Total IRU Fee): \$ 0 _____

Monthly Routine Maintenance Fee : \$ 0 _____ per month (increased by CPI + 1% each year)

Exhibit A-1

- IRU ring & trunk
 - Adtran ERPS 2
 - Juniper LAG 4
 - Sterling A 12
 - Sterling B 12
 - Hydro 12
 - East Coloma 12
 - Tollway vault 12
 - Sewer 12
 - St Andrews 12
 - PoP Ring 12
 - W Rock Falls Rd 36
 - Clearwater Dr 12



Exhibit B

TESTING AND ACCEPTANCE PROCEDURES/STANDARDS

1. All splices will be performed with an industry-accepted fusion splicing machine.
2. All OTDR and splicing testing and acceptance procedures shall be in accordance with generally accepted industry standards.
3. Grantor reserves the right to such additional testing and acceptance procedures as may be necessary in its reasonable discretion.

Exhibit C

ACCEPTANCE/REJECTION NOTICE

Check one box:

IRU Fiber Accepted (fill in acceptance statement below)

Pursuant to that certain IRU Master Agreement (the "Agreement") by and between the City of Rock Falls ("Grantor") and _____ ("Grantee"), dated _____, Grantee hereby accepts the IRU Fibers as described in Exhibit A to the Agreement.

IRU Fiber Rejected (fill in reason statement below)

Reason for Rejection:

Name: _____

Signature: _____

Title: _____

Company: _____

Date: _____

Exhibit D

(Collocation Agreement TBD – if necessary)

Exhibit E

GRANTOR MAINTENANCE AND CALL OUT LIST

Upon Grantor's receipt of a report from Grantee, Grantor shall use its best efforts to dispatch qualified personnel to the location of the outage within four (4) hours. In the event of outage or other issues with respect to the IRU Fiber, Grantee shall contact:

City of Rock Falls
Attn: Electric Department
603 W. 10th Street
Rock Falls, IL 61071
(815) 622-1145

Exhibit F

ROUTINE MAINTENANCE STANDARDS

1.1 FIBER OPTIC CABLE ROUTE SURVEILLANCE

Outside Fiber Optic Cables are periodically inspected by Grantor personnel. During such inspection, the Fiber Optic Cable route is driven/walked to inspect for discrepancies that may affect Fiber Optic Cable integrity. Any discrepancies found are documented and forwarded to Grantor for correction, repair or replacement as necessary. The following are some of the items that may be inspected:

- Fiber Optic Cable route integrity (e.g.: erosion)
- Condition of poles, pedestals, risers, lashing wire, route markers and signs
- Construction activity in the area near the Fiber Optic Cable

1.2 LOCATION REQUESTS

Grantor will follow the guidelines and laws applicable to the State of Illinois relating to excavation and digging, including the marking of their facilities within forty eight (48) hours of receipt of request. Grantor will also take action to ensure that the excavator is aware and protect the Fiber Optic Cable during the excavation as required.

1.3 FIBER OPTIC CABLE RELOCATION REQUESTS

Fiber Optic Cable relocation requests will be submitted to the Grantor to be reviewed for applicable resolution. Requests should be responded to within ten (10) business days and scheduled as required, taking into consideration the scope of work and the urgency of the activity.

EXHIBIT K

(the "IRUs")

EXHIBIT K

**CITY OF ROCK FALLS
INDEFEASIBLE RIGHT OF USE AGREEMENT
(CUSTOMER DROPS)**

This Indefeasible Right of Use Agreement (this "Agreement") is made as of the 30th day of October, 2020 by and between the City of Rock Falls, an Illinois municipal corporation ("Grantor") and Surf Air Wireless, LLC, a Delaware limited liability company ("Grantee").

WHEREAS, Grantor is the owner of a fiber optic communication system located in the City of Rock Falls, Illinois, which is capable of providing access to high speed internet connection and other uses in relation thereto; and

WHEREAS, Grantor is in the business of, among other things, leasing certain Dark Fibers in the Grantor Network to third parties for purposes of providing high speed internet to their customers; and

WHEREAS, Grantee desires to obtain the right to use certain Dark Fibers in the Grantor Network and Grantor desires to grant to Grantee an Indefeasible Right of Use in certain Dark Fibers in the Grantor Network subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Grantor and Grantee hereby agree as follows:

Section 1: **Definitions.** In addition to any terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

- A. "Acceptance" means Grantee's issuance of an Acceptance Notice or failure to issue a notice of defective IRU Fibers within thirty (30) days after receipt of Optical Time-Domain Reflectometry ("OTDR") test results from Grantor pursuant to Article III.
- B. "Acceptance Notice" means Grantee's notice of acceptance or deemed acceptance of the IRU Fibers pursuant to Article III.
- C. "Access Point" is the physical location(s) at which Grantee may, subject to required permits and Rights, connect its telecommunications system with the IRU Fibers. Access Points may be a Grantor point of presence, regenerator site, optical amplifier site, or other designated Splice Point, with each Access Point specifically set forth in Exhibit A. Within thirty (30) days after Acceptance, Exhibit A shall be updated to reflect the actual location of the Access Points.
- D. "Associated Property" shall have the meaning set forth in Section 1.1.
- E. "Collocation Agreement" shall have the meaning set forth in Section 4.1.
- F. "Dark Fiber" means Fiber between two (2) specified locations that has no optronics or electronics attached to it.

- G. "Delivery Work" shall mean all work necessary in order to achieve connectivity and to provide OTDR test results to Grantee from Access Point to Access Point pursuant to Article III herein.
- H. "Fiber" means a glass strand or strands which is/are protected by a color coded buffer tube and which is/are used to transmit a communication signal along the glass strand in the form of pulses of light.
- I. "Fiber Optic Cable" means a collection of Fibers contained in color-coded buffer tubes with a protective outer covering, which covering includes stiffening rods and filler.
- J. "Indefeasible Right of Use" or "IRU" is an exclusive and irrevocable right to use certain Dark Fibers in Grantor's Fiber Optic Cable, subject to the terms and conditions of this Agreement.
- K. "IRU Fibers" means the Dark Fibers/Fiber Optic Cable obtained by Grantee in the Grantor Network as set forth in Exhibit A.
- L. "IRU Fee" means the amount of money Grantee shall pay Grantor for the use of the IRU Fibers.
- M. "Grantor Network" means the fiber optic communication system and all Associated Property owned or operated by Grantor.
- N. "Proportionate Share" means the percentage determined by dividing the total number of IRU Fibers by the total number of Fibers in the Grantor Network.
- O. "Rejection Notice" means the notice of rejection of one or more of the IRU Fibers given to Grantor by Grantee pursuant to Article III herein.
- P. "Relocating Authority" shall have the meaning set forth in Section 24.3.
- Q. "Rights" means any and all permits, rights, and right-of-way agreements, easements, licenses, leases, rights or other agreements necessary for the occupancy and use by either party of poles, conduit, cable, wire, physical plant facilities, and/or access to real property underlying the Fiber Optic Cable.
- R. "Tax" or "Taxes" means all taxes, fees, levies, impositions, imposed duties, charges, or withholdings of any nature, including without limitation ad valorem, real property, gross receipts, taxes and franchise, license and permit fees, together with any penalties, fines or interest thereon arising out of the transactions contemplated by this Agreement and/or imposed upon the IRU Fibers, Grantor Network, or any part thereof, by any governmental agency or taxing authority.

ARTICLE I RIGHT TO USE OF GRANTOR FIBER

Section 1.1: Grant of IRU. Subject to the terms and conditions of this Agreement, Grantor grants to Grantee an IRU in certain Dark Fibers in the Grantor Network more specifically described on

Exhibit A, attached hereto. The IRU includes a non-exclusive right to use tangible and intangible Grantor property in order to use the IRU Fibers, including but not limited to cable sheathing, troughing, pedestals, slack containers, and other related equipment necessary for the operation and use of the IRU Fibers as contemplated herein (collectively, the "Associated Property"), but excluding any electronic or optronic equipment, which shall be provided by Grantee at its sole cost. Grantee agrees to be bound by all applicable laws, regulations and Rights agreements.

Section 1.2: **Non-Interference.** Grantee (or any sub-grantee) shall not use the IRU Fibers in a manner that materially interferes in any way with, or otherwise adversely affects the use of the Grantor Network, Fibers, Fiber Optic Cable, (or any equipment or element thereof). Grantor shall take reasonable measures not to use any other Fibers in the Grantor Network in a way that materially interferes with or would adversely affect Grantee's use of the IRU Fibers.

Section 1.3: **Grantor Property.** The Parties agree that title to the IRU Fibers, Grantor's Fiber Optic Cable, and the Grantor Network (collectively, the "Grantor Property") is vested solely in Grantor. Grantee shall not individually, or permit others to, access, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any Grantor Property without the prior, written consent of Grantor. The Parties agree that no party other than Grantor, or a contractor under the direct supervision of Grantor, shall be permitted to perform maintenance or splicing. Grantor Property is for use in connection with the IRU and shall not be used for any purpose other than that for which Grantor provided it. In the event that Grantee, or Grantee's representative, agent or any other party associated with Grantee violates this provision, in addition to actual damages sustained by Grantor, exclusive of indirect, incidental, consequential, special, or punitive damages for breach by Grantee, Grantee shall be responsible to pay Grantor for all reasonable damages to Grantor Property and also any ongoing service charges in the event that maintenance or inspection of Grantor Property is required as a result of Grantee's violation of this provision. In no event shall Grantor be liable to Grantee or any other entity for interruption of service or for any other loss, cost or damage caused or related to Grantee's unauthorized tampering with the Grantor Property. In the event of any violation of this provision, Grantor reserves the right to terminate this Agreement, and Grantee shall forfeit all monies paid by Grantee hereunder to date.

ARTICLE II TERM

Section 2.1: **Term of Agreement.** The initial term of this Agreement shall commence on the Effective Date (as defined in Section 3.3) and shall continue thereafter for the period of time set forth in Exhibit A unless sooner terminated as provided below (all of the foregoing, the "Initial Term").

Section 2.2: **Renewal Terms.** Either party may terminate this Agreement at the end of the Initial Term by giving written notice of such termination to the other party at least ninety (90) days prior to the end of such term. If neither party gives such notice of termination, this Agreement shall automatically continue in force from year to year until terminated by either party upon ninety (90) days written notice (each a "Renewal Term"). The Initial Term and any applicable Renewal Term(s) are collectively referred to herein as the "Term".

Section 2.3: **Survival of Certain Obligations.** The expiration or termination of this Agreement shall not affect the rights or obligations of any party with respect to any payments of costs incurred prior to the date of termination or pursuant to Article IX (Taxes); Article X (Liability); Article XVI (Default); and Article XXIII (Rights).

Section 2.4: Termination/Expiration; Restoration. Within sixty (60) days from the expiration or earlier termination of this Agreement, Grantee shall remove, or cause to be removed, all Grantee owned Fiber Optic Cable and related equipment used in connection with Grantee's use of the IRU Fiber (all of the foregoing, collectively, the "Grantee Property"), and shall return the Access Point, Grantor Fiber Optic Cable, and Associated Property used in connection with the IRU Fiber to substantially the same condition as it was in as of the Effective Date. Grantee shall provide Grantor with reasonable notice of its intended removal process, including the dates and times during which Grantee will remove or anticipates removing Grantee Property, in order for Grantor to supervise the same for compliance with the terms of this Agreement.

ARTICLE III ACCEPTANCE AND DOCUMENTATION

Section 3.1: Acceptance. Grantee shall be deemed to have accepted and to be in possession of the IRU Fibers upon the Effective Date subject to, and after completion of, the procedures set forth below.

Section 3.2: Test Results. Intentionally omitted.

Section 3.3: Acceptance/Rejection Procedure. Intentionally omitted.

Section 3.4: Record Drawings. Upon request, but not before one hundred twenty (120) days after Acceptance, Grantor shall provide record drawings regarding the as-built Fiber Optic Cable containing the IRU Fibers. The record drawings shall contain the technical specifications of the IRU Fibers, associated splices and other details consistent with industry standards. At the request of Grantee, and at Grantee's cost, the record drawings may also be provided in electronic format if possible using reasonable efforts.

ARTICLE IV PERMITS, RIGHTS FEES, AND COLLOCATION AGREEMENTS

Section 4.1: Collocation. Grantee shall be responsible for entering into any collocation agreements with local exchange carriers and interexchange carriers to use its IRU Fibers. In the event that Grantee wishes to co-locate in Grantor facilities, or in facilities owned by any third party as a sub-tenant Lessee of Grantor, the parties shall enter into a separate collocation agreement for each site substantially in the form of a Collocation Services Addendum (a "Collocation Agreement"), which may be attached as Exhibit C subject to obtaining any required third party consents, including the consent of any landlords of Grantor. In the event that Grantor, in its discretion, decommissions any collocation site, Grantor will not be responsible for any costs associated with removal or relocation of Grantee's facilities or the IRU Fibers.

Section 4.2: Permits. Grantee shall be responsible for the appropriate government filings, licenses, or other requirements to place the IRU Fibers into operation, including, but not limited to any necessary municipal licenses and/or franchise agreements other than those Rights agreements discussed in Article XXIII herein and which shall remain the responsibility of Grantor.

Section 4.3: Rights Fees. Consistent with Article IX herein, Grantee shall pay its Proportionate Share of Rights fees as required from time to time by property owners, government

agencies, taxing authorities, or otherwise imposed by law or contract and which relate to Grantor's Fiber Optic Cable containing the IRU Fibers. Upon written request therefor, Grantor shall provide a reasonable accounting for same.

ARTICLE V PAYMENT

Section 5.1: IRU Fee. Upon Acceptance of the IRU Fibers pursuant to the procedures set forth in Article III herein, and as further consideration for the grant of the IRU by Grantor to Grantee, Grantee shall pay Grantor the IRU Fee set forth in Exhibit A. The IRU Fee shall be calculated per fiber per mile for the applicable Grantor Fiber Optic Cable in which Grantee receives an IRU hereunder and shall specifically include slack loops and similar lengths necessary for proper splicing and maintenance. The actual route miles used to calculate the IRU Fee shall be set forth in Exhibit A; provided that the total IRU Fee shall be adjusted to take into account a differing amount calculated pursuant to the immediately preceding sentence in accordance with final OTDR tests. The distance used to calculate the IRU Fee hereunder using the OTDR distances from Access Point to Access Point shall be conclusive and binding on the parties for all purposes hereunder.

Section 5.2: Deposit. Grantee shall pay a deposit of twenty-five percent (25%) of the total IRU Fee to Grantor before the Delivery Work is completed and before Access Point to Access Point OTDR test results for the specific IRU Fibers are completed. The deposit amount will be defined in Exhibit A. The remainder of the IRU Fee shall be paid within sixty (60) days after Acceptance of the IRU Fibers.

Section 5.3: Method of Payment. All payments to Grantor set forth in this Agreement, except as otherwise provided herein, are due and payable within sixty (60) days of Grantee's receipt of an invoice for the same.

Section 5.4: Maintenance and Repair Fees. Payment for maintenance and repairs performed under this Agreement shall be made as follows:

- (a) Grantee shall be responsible for payment of all routine or emergency maintenance and repairs.

Section 5.5: Delivery and Splicing Fees. All splicing at the Access Points in order for Grantee to achieve end-to-end connectivity thereafter shall be paid by, and shall be the responsibility of, Grantee.

Section 5.6: Overdue Payments. If Grantee fails to make any payment under this Agreement when due, such amount shall accrue interest from the date such payment is due until paid, including accrued interest compounded monthly, at an annual rate of six percent (6%). If the aforementioned rate exceeds the maximum rate allowed by applicable law, then the interest rate made applicable herein shall be the maximum rate allowed by law.

ARTICLE VI MAINTENANCE AND REPAIRS

Section 6.1: Procedures. Intentionally omitted.

Section 6.2: Routine and Emergency Maintenance. All routine maintenance and repair functions and emergency maintenance and repair functions, including “one-call” responses, cable locate services, and necessary relocation of the Grantor Fiber Optic Cable containing the IRU Fibers, shall be performed by Grantee or its designee.

- (a) Emergency Maintenance. Intentionally omitted.
- (b) Routine Maintenance. Intentionally omitted.

Section 6.3: Notice of Repair. Except when implementation of an emergency repair situation would be delayed by the following notice requirements, Grantor shall provide advance notice to Grantee of maintenance or repairs that may affect the IRU Fibers.

(a) Emergency Maintenance. Grantor shall provide at least two (2) hours advance notice regarding repairs that may affect Grantee’s IRU Fibers. Notice shall be given in the method specified for Routine Maintenance in subsection (b) below.

(b) Routine Maintenance. Grantor shall use its best efforts provide at least ten (10) calendar days advance notice regarding any maintenance or repairs that may affect Grantee’s IRU Fibers by submitting an email notification to Grantee.

Section 6.5: Maintenance of Relocated Fibers. Intentionally omitted.

ARTICLE VII SPLICING

Section 7.1: Splicing by Grantor Only. Upon Acceptance and payment of the balance of the IRU Fee and any applicable delivery charges, Grantee’s lateral or other Fibers beyond the Access Points may be spliced into the Grantor Fiber Optic Cable at the Access Points pursuant to the procedures set forth on Exhibit B. In order to maintain the integrity of Grantor’s Fiber Optic Cable and Grantor’s Network, Grantor, or a contractor operating under its direction, shall perform all splicing performed on the Grantor Fiber Optic Cable at the Access Points, at Grantee’s expense.

ARTICLE VIII REPRESENTATIONS AND WARRANTIES

Section 8.1: Representations and Warranties. Each party represents and warrants to the other with respect to the rights and obligations contained herein:

- (a) it has the full right and authority to enter into, execute, deliver and perform its obligations under this Agreement;
- (b) this Agreement constitutes a legal, valid, binding obligation enforceable against such party in accordance with its terms; and
- (c) the execution of and performance under this Agreement shall not violate any applicable existing regulations, rules, statutes or court orders of any local, state or federal government agency, court or body.

Section 8.2: Limitation on Liability and Disclaimer of Warranties. GRANTOR WARRANTS THAT GRANTOR'S FIBER OPTIC CABLE AND FIBERS SHALL HAVE BEEN CONSTRUCTED IN ACCORDANCE WITH PREVAILING INDUSTRY STANDARDS AND SHALL BE FREE OF MATERIAL DEFECTS IN MATERIALS AND WORKMANSHIP FOR A PERIOD OF THIRTY (30) DAYS FROM ACCEPTANCE THEREOF BY GRANTEE. GRANTOR MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO GRANTOR'S FIBER OPTIC CABLE OR THE IRU FIBERS. THE FOREGOING WARRANTY CONSTITUTES THE ONLY WARRANTY WITH RESPECT TO GRANTOR'S FIBER OPTIC CABLE AND THE IRU FIBERS. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. GRANTOR SHALL IN NO EVENT BE LIABLE TO GRANTEE FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OF ANY NATURE WHATSOEVER FOR ANY REASON HEREUNDER.

Section 8.3: Vendor Warranties. In addition to the foregoing limited warranties, Grantor hereby assigns to Grantee, and Grantee shall have the benefit of, any and all vendors', manufacturers', contractors' and suppliers' warranties with respect to the material in the Fiber Optic Cable, Fiber, and/or associated property supplied by Grantor.

ARTICLE IX TAXES

Section 9.1: Grantee Responsibility. Upon Grantee's Acceptance of the IRU Fibers, Grantee shall be responsible for any and all sales, use, income, gross receipts, real or personal property or other Tax imposed on Grantor due to Grantee's use of the IRU Fibers.

Section 9.2: Grantor Responsibility. Grantor shall be responsible for and shall timely pay any and all Taxes and impositions with respect to the construction or operation of Grantor's Network, which Taxes or impositions are imposed or assessed during the Term with respect to any of Grantor's Fiber Optic Cable subject to this Agreement. Notwithstanding the foregoing obligations, Grantor shall have the right to challenge any such Tax or imposition so long as the challenge of such Tax or imposition does not materially adversely affect the rights to be delivered to Grantee pursuant hereto.

Section 9.3: Tax Cooperation. Grantor and Grantee acknowledge and agree that it is their mutual objective and intent to (i) minimize, to the extent feasible, the administrative expenses associated with and the aggregate Taxes and impositions payable with respect to the IRU and the IRU Fibers and (ii) share such Taxes according to their respective interests in the IRU Fibers and Grantor's Fiber Optic Cable, and that they will cooperate with each other and coordinate their mutual efforts to achieve such objectives in accordance with the provisions of this Article.

Section 9.4: Payment Exclusive of Taxes. All payments made by Grantee to Grantor hereunder shall be made without any deduction or withholding for or on account of any Tax, duty or other charges of whatever nature imposed by any taxing or government authority.

ARTICLE X LIABILITY

Section 10.1: Limitation of Liability. Neither Grantor nor Grantee shall be liable to the other for any indirect, special, punitive or consequential damages, including, but not limited to, any claim from any customer for loss of services, arising under this Agreement or from any breach or partial breach of the provisions of this Agreement or arising out of any act or omission of either party hereto, its directors, officers, employees, servants, elected officials, contractors and/or agents. Both Grantor and Grantee shall include in any agreement with any third party relating to the use of Grantor's Fiber Optic Cable or Grantee's IRU Fibers a waiver by such third party of any claim for indirect, special, punitive or consequential damages, including, but not limited to, any claim from any client or customer for loss of services, arising out of or as a result of any act or omission by either party hereto, its directors, officers, employees, servants, contractors and/or agents.

Section 10.2: Grantor Indemnification. Subject to the provisions of Section 10.1, Grantor hereby agrees to indemnify, defend, protect and hold harmless Grantee and its employees, officers and directors, from and against, and assumes liability for: (i) any injury, loss or damage to any person, tangible property or facilities of any person, including reasonable attorneys' fees and costs, to the extent arising out of or resulting from the negligence or willful misconduct of Grantor, its officers, employees, servants, affiliates, and agents arising out of or in connection with the performance or omission by Grantor of its obligations or the exercise by Grantor of its rights under this Agreement; and (ii) any claims, liabilities or damages arising out of any violation by Grantor of any regulation, rule, statute or court order of any governmental authority in connection with the performance or omission by Grantor of its obligations or the exercise by Grantor of its rights under this Agreement.

Section 10.3: Grantee Indemnification. Subject to the provisions of Section 10.1, Grantee hereby agrees to indemnify, defend, protect and hold harmless Grantor, and its employees, officers and directors, from and against, and assumes liability for: (i) any injury, loss or damage to any person, tangible property or facilities of any person, including reasonable attorneys' fees and costs, to the extent arising out of or resulting from the negligence or willful misconduct of Grantee, its officers, employees, servants, affiliates, and agents arising out of or in connection with the performance or omission by Grantee of its obligations or the exercise by Grantee of its rights under this Agreement; and (ii) any claims, liabilities or damages arising out of any violation by Grantee of any regulation, rule, statute or court order of any governmental authority in connection with the performance or omission by Grantee of its obligations or the exercise by Grantee of its rights under this Agreement.

Section 10.4: Notice of Claims. Grantor and Grantee agree to promptly provide each other with notice of any claim which may result in an indemnification obligation hereunder. The indemnifying party may defend such claim with counsel of its own choosing provided that no settlement or compromise of any such claim shall occur without the consent of the indemnified party, which consent shall not be unreasonably withheld or delayed.

Section 10.5: Actions Against Third Parties. Nothing contained herein shall operate as a limitation on the right of either party hereto to bring an action for damages, including consequential damages, against any third party based on any acts or omissions of such third party as such acts or omissions may affect the operation or use of Grantor's Fiber Optic Cable, or any IRU Fibers; and each party hereto shall assign such rights or claims, execute such documents and take whatever actions as may be reasonable and necessary to enable the injured party to pursue any such action against such third party.

Section 10.6: Survival of Indemnifications. Grantor and Grantee each expressly recognize and agree that its obligation to indemnify, defend, protect and hold the other harmless is not a material obligation to the continuing performance of its other obligations, if any, hereunder. In the event that a party shall fail for any reason to so indemnify, defend, protect and save the other harmless, the injured party hereby expressly recognizes that its sole remedy in such event shall be the right to bring legal proceedings against the other party for its damages as a result of the other party's said failure to indemnify, defend, protect and save harmless. These obligations shall survive the expiration or termination of this Agreement for a period of one (1) year.

ARTICLE XI FORCE MAJEURE

Section 11.1: Force Majeure. The obligations of the parties (except for the payment of money hereunder by Grantee) are subject to force majeure and neither party shall be in default under this Agreement if any failure or delay in performance is caused by strike or other labor dispute; accidents; acts of God; fire; flood; earthquake; lightning; unusually severe weather; material or facility shortages or unavailability not resulting from such party's failure to timely place orders therefor; lack of transportation; legal inability to access property; acts of any governmental authority; government codes, ordinances, laws, rules and regulations or restrictions; condemnation or the exercise of rights of eminent domain; war or civil disorder; or any other cause beyond the reasonable control of either party hereto. The excused party shall use its best efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. Notification of any such event or cause shall in all cases be given by the excused party to the other and, when possible, of the estimated duration.

ARTICLE XII RELOCATION OF CABLE

Section 12.1: Relocation. If after the Effective Date, Grantor is required to, or reasonably determines that it is required to, relocate or replace its Fiber Optic Cable or any of the appurtenant facilities used or required in providing the IRU, (whether by act of nature, government, or grantor of any Right) then, so long as such work is not necessitated by a breach of Grantor's obligations hereunder, Grantee shall reimburse Grantor for Grantee's Proportionate Share of such costs, including, without limitation, Fiber Optic Cable acquisition, splicing, and testing, including overhead. Grantor, upon written request, shall deliver to Grantee updated record drawings with respect to any relocated portion of the Fiber Optic Cable upon request but no earlier than one hundred twenty (120) days following such relocation. Upon completion of any such relocation and payment therefor by Grantee, Grantee shall be deemed have an IRU in and to the replacement Fibers as set forth in Article I herein.

Section 12.2: Notice of Relocation. Grantor shall give Grantee thirty (30) days prior notice of any such relocation, if possible, and shall have the obligation to proceed with such relocation, including, but not limited to, the right to determine the extent of, the timing of, and methods to use for such relocation.

Section 12.3: Right to Review. Grantor shall have the right to determine the timing, means, method and extent of any relocation hereunder; provided however, that Grantee shall have the right to review the relocation plans of Grantor fourteen (14) days prior to any relocation and shall have the

right to have a representative present at the time Grantor relocates the Fiber Optic Cable containing the IRU Fibers.

ARTICLE XIII INSURANCE

Section 13.1: Insurance Requirements. Each Party, and any contractor employed by the Party to work on the Fiber Optic Cable and/or Fibers, shall maintain insurance for the duration of this Agreement, and for three (3) years after the termination of this Agreement (in the case of Grantee) or for three (3) years after the termination of a contractor's work on the IRU Fibers and/or Grantor's Fiber Optic Cable (in the case of a contractor), as follows:

(a) Workers' Compensation Insurance in such amounts as may be required by the law of the state or states in which the services are to be provided and Employers Liability Insurance with the limits of \$1,000,000 for each accident, including occupational disease coverage with limits of \$1,000,000 for each employee, with a \$1,000,000 policy limit.

(b) Comprehensive General Liability Insurance, including premises, operations, products and completed operations, contractual, broad form property damage, independent contractors and personal injury with the following minimum limits: Personal Injury - \$1,000,000 each person and \$1,000,000 each accident, and Property Damage - \$1,000,000 each accident.

(c) Automobile Liability Insurance for owned, hired and non-owned autos: \$1,000,000 combined single limit bodily injury/property damage.

(d) Excess or Umbrella Insurance applicable to all of the coverages required in this section, except for the Workers' Compensation Insurance required in subparagraph (a) above (but such coverage shall be applicable to the required Employers Liability Insurance), with policy limits of at least \$2,000,000 per occurrence.

Section 13.2: Grantor as Additional Insured. Grantor shall be included as an additional insured on a primary, non-contributory basis on all policies specified in Section 13.1. Such additional insurance shall apply to any and all claims arising out of Grantor's or a contractor's work, operations or products; additional insurance provisions which apply only to claims arising out of the named insured's negligence or which otherwise apply only to vicarious liability are not acceptable.

Section 13.3: Proof of Insurance. Failure of either Party to enforce the insurance requirements of this Article XIII shall not relieve the Party of its obligation to maintain the required coverage. Upon request, either Party shall provide proof of insurance to the other. Unless otherwise agreed in writing, all insurance policies required shall be obtained and maintained with companies rated A or better by Best's Key Guide.

ARTICLE XIV CONDEMNATION

Section 14.1: Notice of Taking. Upon its receipt of a formal notice of condemnation or taking with respect to Grantor's Fiber Optic Cable or the Rights in or upon which the Grantor's Fiber Optic Cable has been installed, Grantor shall notify Grantee within thirty (30) days of any such

condemnation proceeding filed against Grantor's Fiber Optic Cable, including the IRU Fibers, or the Rights in or upon which the IRU Fibers have been installed.

Section 14.2: Costs. It is expressly recognized and understood by Grantee that relocation costs resulting from any such condemnation proceeding may not be fully reimbursed by the condemning authority and, if Grantor relocates the IRU Fibers, Grantee shall pay its Proportionate Share of all costs associated with the relocation of the IRU Fibers in excess of such costs which were reimbursed by the condemning authority. Notwithstanding, if the IRU Fibers are relocated by Grantor, Grantee shall pay to Grantor all condemnation awards given to Grantee, if any, that relate to the relocation of the IRU Fibers and thereafter Grantee shall be deemed to have an IRU in and to the replacement Fibers as set forth in Article I herein.

ARTICLE XV CONFIDENTIALITY

Section 15.1: Confidential Information. Grantor and Grantee shall agree to keep the terms and substance of this Agreement confidential, and shall refrain from using or disclosing any confidential information of the other party that may be shared pursuant to this Agreement for any purpose not specifically authorized herein. Notwithstanding the foregoing, Confidential Information shall not be deemed to include information that (1) is publicly available or in the public domain at the time disclosed to the Receiving Party; (2) is or becomes publicly available or enters the public domain through no fault of the Receiving Party or its representatives; (3) is rightfully communicated to the receiving party by persons not bound by confidentiality obligations with respect thereto; (4) is already in the receiving party's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (5) is independently developed by the receiving party; (6) is approved for release or disclosure by the disclosing party without restriction; or (7) is required by law or court order to be disclosed, in which event the receiving party shall immediately notify the disclosing party in writing in order to enable the disclosing party to take appropriate measures to protect the confidentiality of the confidential information. The parties agree and acknowledge that Grantor is a governmental body, and as such, is subject to comply with certain disclosures of information pursuant to the Freedom of Information Act (FOIA) and such other statutory requirements such as the Open Meetings Act (OMA). It is hereby expressly agreed that Grantor shall not be liable to Grantee, and it shall not be considered a breach of this Agreement, in the event Grantor is required to disclose certain information that may consist of Confidential Information pursuant to the OMA or any lawful FOIA request. The foregoing exceptions relating to FOIA and OMA shall similarly apply to Grantee to the extent said Grantee is a governmental body subject to such laws.

ARTICLE XVI DEFAULT

Section 16.1: Notice and Cure. Neither party shall be in default under this Agreement unless and until the other party shall have given the defaulting party written notice of such default and the defaulting party shall have failed to cure the default within ten (10) days after written receipt of such notice; provided, however, that where a default cannot be reasonably cured within the ten (10) day period, if the defaulting party shall promptly proceed to cure the default with due diligence, the time for curing the default shall be extended for a period of up to sixty (60) days from the date of receipt of the default notice.

With a copy to: Chilton Yambert Porter, LLP
Attn: Randall G. Vickery
303 W. Madison Street; Suite 2300
Chicago, IL 60606

ARTICLE XVIII ASSIGNMENT, SUCCESSION

Section 18.1: Assignment. Grantee shall not assign this Agreement, in whole or in part, to any other party without prior written notice to and written consent of Grantor, in Grantor's sole and absolute discretion.

Section 18.2: Binding Effect. Subject to the provisions of this Article, each of the parties' respective rights and obligations hereunder shall be binding upon and shall inure to the benefit of the parties hereto and each of their respective permitted successors and assigns.

ARTICLE XIX GOVERNING LAW

Section 19.1: Prior Laws and Agreements. This Agreement shall be interpreted and construed in accordance with the laws of the State of Illinois, without regard to its conflict of laws principles. Venue shall be appropriate in a court of competent jurisdiction residing in Whiteside County, Illinois.

ARTICLE XX ACKNOWLEDGEMENT REGARDING USE AND ENCUMBRANCES

Section 20.1: No Encumbrances. Grantee agrees and acknowledges that it has no right to use any of the Fibers, other than the IRU Fibers, included in the Grantor Fiber Optic Cable or otherwise incorporated into Grantor's Network and that Grantee shall keep any and all of Grantor's Network, other than the IRU Fibers, free from any liens, rights or claims of any third parties whatsoever.

ARTICLE XXI NO PARTNERSHIP/JOINT VENTURE

Section 21.1: No Partnership. The parties agree that this Agreement does not create a partnership between, or a joint venture of the Grantor and Grantee.

ARTICLE XXII OPERATIONS

Section 22.1: Responsibility for Operations. Subject to the provisions of this Agreement, each party shall have responsibility for determining any network and service configurations or designs, routing configurations, rearrangement or consolidation of channels or circuits and all related function with regard to the use of that party's Fiber.

Section 22.2: Responsibility for Optronics. Grantee acknowledges and agrees that Grantor is not supplying nor is Grantor obligated to supply to Grantee any optronics or electronics or optical or

electrical equipment at any Grantee site, all of which are the sole responsibility of Grantee; nor is Grantor responsible for performing any work other than as specified in this Agreement or for providing other facilities, including, without limitation, generators, batteries, air conditioners, fire protection, and monitoring and testing equipment at any Grantee site, unless specifically otherwise agreed in writing.

ARTICLE XXIII RIGHTS

Section 23.1: Required Rights. Grantor agrees to obtain and maintain in full force and effect for and during the Term all rights, licenses, permits, authorizations, rights-of-way, easements and other agreements which are necessary for Grantor to obtain in order to permit Grantor to construct, install and keep installed, and maintain the IRU Fibers in accordance with this Agreement and to convey the IRU in the IRU Fibers to Grantee and all other rights under this Agreement pursuant to the IRU (collectively, the “**Required Rights**”). To the extent necessary, Grantee shall obtain, prior to the commencement of the Term, and maintain in full force and effect for and during the Term all rights, licenses, permits, authorizations, franchises and other approvals which are necessary for Grantee to obtain in order to permit Grantor to grant the IRU to Grantee and for Grantee to use the IRU Fibers.

Section 23.2: Notice; Cure. In the event Grantor shall receive notice from any grantor or provider of a Required Right that Grantor has failed to observe or perform its obligations under such Required Right, Grantor shall give written notice to Grantee and Grantee may, at its option and after providing Grantor with a reasonable opportunity to cure the same, subject to the terms and provisions of the Required Right and the ability of third parties to cure defaults of Grantor thereunder, cure or correct such failure.

Section 23.3: Relocation. If Grantor is required (i) by any governmental authority under the power of eminent domain or otherwise; (ii) by the grantor or provider of any Required Right; (iii) by any other person having the authority to so require (each a “**Relocating Authority**”); or (iv) by the occurrence of any force majeure event, to relocate the Fiber Optic Cable, Fibers, or associated equipment, Grantor shall have the right to either proceed with such relocation, including, but not limited to, the right, in good faith, to reasonably determine the extent and timing of, and methods to be used for, such relocation, or to pay such amounts to the Relocating Authority as are necessary to avoid the need for such relocation. Grantee shall be kept fully informed of all determinations made by Grantor in connection with such relocation, and any such relocation shall be constructed substantially in accordance with the specifications set forth herein, shall incorporate Fiber meeting or exceeding the specifications set forth herein, and be subject to Acceptance testing.

Section 23.4: Right to Contest. Grantor shall have the right to contest any legal or equitable challenge relating to the Rights. If Grantee agrees in writing to join Grantor in any such contest the out-of-pocket costs and expenses (including, without limitation, reasonable attorney's fees and expenses) incurred by Grantor in any such contest shall be shared by Grantee and Grantor by their Proportionate Shares.

ARTICLE XXIV MISCELLANEOUS

Section 24.1: Headings. The headings of the Articles and Sections in this Agreement are strictly for convenience and shall not in any way be construed as amplifying or limiting any of the terms, provisions or conditions of this Agreement.

Section 24.2: Construction. In construction of this Agreement, words used in the singular shall include the plural and the plural the singular, and "or" is used in the inclusive sense, in all cases where such meanings would be appropriate.

Section 24.3: Severability. No provision of this Agreement shall be interpreted to require any unlawful action by either party. If any Article or clause of this Agreement is held to be invalid or unenforceable, then the meaning of that Article or clause shall be construed so as to render it enforceable to the extent feasible. If no feasible interpretation would save the section or clause, it shall be severed from this Agreement with respect to the matter in question, and the remainder of the Agreement shall remain in full force and effect. However, in the event such Article or clause is an essential element of the Agreement, the parties shall promptly negotiate a replacement section or clause that will achieve the intent of such unenforceable section or clause to the extent permitted by law.

Section 24.4: Entire Agreement; Amendment. This Agreement, and any Exhibits referenced and attached hereto or to be attached hereto, including any other agreement or exhibit incorporated by reference, constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersede any and all prior negotiations, understandings and agreements with respect hereto, whether oral or written. This Agreement may be amended only by a written instrument executed by the party against whom enforcement of the modification is sought.

Section 24.5: Non-Waiver. No failure to exercise and no delay in exercising, on the part of either party hereto, any right, power or privilege hereunder shall operate as a waiver hereof, except as expressly provided herein. Any waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless and until agreed to in writing by both parties.

Section 24.6: Performance. All actions, activities, consents, approvals and other undertakings of the parties in this Agreement shall be performed in a reasonable and timely manner.

Section 24.7: Well Known Meanings. Unless expressly defined herein, words having well known technical or trade meanings shall be so construed.

Section 24.8: Counterparts. This Agreement may be executed simultaneously, including via facsimile, in one or more counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

(signatures of the parties to appear on the following page)

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

GRANTOR:

CITY OF ROCK FALLS, an
Illinois municipal corporation

By: _____

GRANTEE:

SURF AIR WIRELESS, LLC, a
Delaware limited liability company

By: _____
Its: _____

Exhibit A

Term of Agreement: _____ years (tied to payment schedule/franchise)

Access Point Locations:

Tie cables/panels will be installed at City PoPs providing access to IRU fiber (ring, trunk and select City drops.	

Description of Fiber Optic Cable Route Segment(s):

NUMBER OF IRU FIBERS	RING OR END DEMARCATION POINTS OF FIBER OPTIC CABLE ROUTE SEGMENTS
One fiber to all active FiberNet customers using City drops at the time of closing. Additional fiber strands may be available.	City PoP to end user premises.

Additional Provisions:

Grantee assumes all maintenance expense, JULIE and restoration responsibilities for the assigned customer drops excluding any City retained segments.
As the Grantee completes fiber buildouts and circuits are rehomed, certain segments of these customer drops may no longer be used by the Grantee. Upon notification, these inactive segments will be recovered by the Grantor.
All active City fiber drops will be transferred in current working condition (as is).

IRU Fee (\$/Fiber/mile): (\$ 0 /fiber/mile X _____ fibers X _____ miles)

Total IRU Fee: \$ 0

Initial IRU Deposit (25% of Total IRU Fee): \$ 0

Monthly Routine Maintenance Fee : \$ 0 per month (increased by CPI + 1% each year)

Exhibit A-1

- City Dark Fiber customers
- Mid-Continent Fastener
- Moore Tire
- IFH Group
- Pignatelli
- All Seasons Motel
- Super 8
- Whiteside Housing Auth
- Wiliam & Mary
- St Andrews School
- Whiteside Co Health
- HS Athletic Filed
- High School
- Hartland Controls
- Civil Constr
- Gen 4 Sales
- Thome School
- Tri-County Opportunities
- East Coloma School
- Blackhawk Hills
- Dist 13 Merrill School
- Dist 13 Middle School
- Dist 13 Dillon School
- Best Cob
- Dekalb Feeds
- Industrial Overlay



Exhibit B

TESTING AND ACCEPTANCE PROCEDURES/STANDARDS

1. All splices will be performed with an industry-accepted fusion splicing machine.
2. All OTDR and splicing testing and acceptance procedures shall be in accordance with generally accepted industry standards.
3. Grantor reserves the right to such additional testing and acceptance procedures as may be necessary in its reasonable discretion.

Exhibit C

(Collocation Agreement TBD – if necessary)

EXHIBIT L

(the "Water Tower License")

EXHIBIT L

WATER TOWER LICENSE FOR BROADBAND WIRELESS FACILITIES

This Water Tower License for Broadband Wireless Facilities (this "License") is entered into as of this 30th day of October, 2020 (the "Effective Date"), by and between the CITY OF ROCK FALLS, an Illinois municipal corporation ("Owner") and SURF AIR WIRELESS, LLC, a Delaware limited liability company ("Surf Air"). Owner and Surf Air are sometimes collectively referred to herein as the "Parties".

WHEREAS, Owner owns certain elevated water storage tower structures (the "Water Towers") located at 911 W. 11th Street and 2019 9th Avenue, Rock Falls, IL 61071 (collectively, the "Property"); and

WHEREAS, Surf Air desires to utilize certain space on the Water Towers (the "Premises") for placement of wireless communications service facilities and related equipment, and Owner has determined that the use of the Premises by Surf Air for such purposes will not interfere with Owner's use or operation of said Towers; and

WHEREAS, the Parties desire to enter into this License to provide for such rights and obligations, all upon the terms and conditions as are more specifically set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties hereto agree as follows:

1. License. Owner hereby grants to Surf Air a license and right to use the Water Towers for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, a wireless communications service facility on the Premises, including, without limitation, electronic network equipment, antenna and base station equipment and support structures, cable, wiring, back-up power sources, related fixtures and improvements (the "Facilities") for the purpose of providing wireless broadband internet services to Surf Air's customers located within the City of Rock Falls and surrounding areas, and for such other uses incidental or related thereto (all of the foregoing, the "Permitted Uses"). Surf Air will use the Premises only for the Permitted Uses and in a manner which will not unreasonably disturb the occupancy of Owner's other tenants at the Water Towers, if any.

2. License Fee. Surf Air shall pay to Owner the sum of TWO HUNDRED AND NO/100THS DOLLARS (\$200.00) per month (the "License Fee") for the use of the Premises for the Permitted Uses during the Term.

3. Term; Removal. The initial term of this License shall be for a period of twenty (20) years from the Effective Date, unless earlier terminated in accordance with the terms herein and/or applicable law (the "Initial Term"). This License shall automatically renew for four (4) additional five (5) year periods thereafter (each, a "Renewal Term", and collectively with the Initial Term, the "Term"), unless either Party notifies the other of its intent not to renew at least one hundred and twenty (120) days prior to the end of the Initial Term or the then current Renewal Term.

(a) Upon the expiration or earlier termination of this License, Surf Air shall, within thirty (30) days from such date (the "Removal Date"), surrender possession of the Premises and remove the Facilities installed upon the Water Towers without further demand or notice by Owner. Surf Air shall be responsible for returning the Premises to substantially the condition as existed on the Effective Date, and upon the failure of Surf Air to return the Premises to such condition by the Removal Date, Owner may undertake such work and the cost and expense incurred by Owner shall be charged to Surf Air.

(b) Failure by Surf Air to remove the Facilities by the Removal Date shall constitute a holding over, and Surf Air shall thereafter pay to Owner fifteen (15) times the amount of the License Fee for each month or part thereof during which such holding over shall occur. If such a holding over shall occur, Owner may terminate any rights of Surf Air which may have accrued during such period of holding over by notice in writing to Surf Air ten (10) days in advance of the date of termination. Upon failure of Surf Air to remove the Facilities following such notice, Owner shall be entitled, at any time after expiration of said ten (10) day period, to remove the Facilities at its discretion. Surf Air hereby waives, relinquishes and releases any and all claims which it may have against Owner for damage to any of the Facilities which may be removed by Owner pursuant to this right. Upon failure of Surf Air to retrieve the Facilities within thirty (30) days following removal, such Facilities shall be deemed abandoned by Surf Air, and Owner shall be entitled to dispose of the Facilities at its discretion, and Surf Air hereby waives, relinquishes and releases any and all claims which it may have in and to any of the Facilities so removed by Owner or in and to any proceeds of disposal of same.

4. Installation; Operation; Maintenance. Surf Air shall be responsible for obtaining, installing, repairing and maintaining all Facilities and other equipment for the Permitted Uses in accordance with such plans and specifications as are approved by Owner, which approval shall not be unreasonably withheld. All such Facilities and other equipment installed on the Premises or otherwise attached to the Water Towers by Surf Air shall be and remain the property of Surf Air unless deemed abandoned as provided herein. Any Facilities and other equipment installed or attached in or upon the Premises shall be done in accordance with all applicable specifications and requirements of Owner or as required by applicable law. All modifications to the Premises and all improvements made for Surf Air's benefit shall be at Surf Air's expense and such improvements, including antenna, Facilities and other equipment, shall be maintained in a good state of repair. Surf Air shall be responsible for any and all damage caused by Surf Air to the property of Owner during the installation, removal, location, repair, maintenance or existence of the Facilities. No entry shall be made upon the Water Towers by any agent or representative of Surf Air except upon advance notice to Owner. Surf Air shall use commercially reasonable efforts to notify Owner of such entry at least twenty-four (24) hours prior to the same, except in cases of emergency, whereupon Surf Air shall notify Owner as soon as is reasonably possible. Owner shall be entitled to have a representative on site to observe any installation, removal, modification maintenance or repairs being conducted by Surf Air.

5. Non-Interference; Cooperation. Surf Air shall, at its own expense, maintain any equipment or Facilities on or attached to the Premises in a safe condition, in good repair and in a

manner suitable to Owner so as not to conflict with the use of the surrounding premises by Owner. Surf Air shall not unreasonably or materially interfere with the operations of Owner or any prior tenant using the Water Towers and shall not interfere with the working use of the Water Towers. To the extent that Owner's obligations with respect to repair or maintenance of the Water Towers requires temporary removal or relocation of the Facilities from the Premises, the Parties agree that they shall reasonably cooperate with one another to accommodate the same. In addition to the foregoing, in the event that Surf Air's use of the Premises for the Permitted Uses causes interference or other conflict with communications systems placed on or attached to the Water Towers by public safety agencies, including law enforcement, fire and ambulances services, regardless if such communications systems were in place as of the Effective Date, then Surf Air agrees that it shall take all steps reasonably necessary to resolve such issues, including but not limited to adjusting the type or frequency of its Facilities or otherwise repositioning the Facilities to another location upon the Water Towers.

6. Compliance with Law. Surf Air warrants that all Facilities and other equipment and materials placed in or upon the Premises will comply with all applicable regulations, rules and directives of the Federal Aviation Administration ("FAA"), is installed and operated in compliance with all applicable requirements of the Federal Communications Commission ("FCC") and any other applicable governmental agency with authority over the Water Towers, the Facilities or their use. All persons engaged or employed by Surf Air to perform work upon the Premises, which work requires climbing or scaling ladders, scaffolding or other climbing apparatus in or upon the Water Towers, shall be certified under the applicable standards of the Occupational Safety and Health Act ("OSHA") and shall be required to adhere to all required safety standards. Any equipment provided for climbing or scaling the Water Towers or any ladders, scaffolding or climbing apparatus shall be certified as compliant with applicable OSHA standards. Surf Air shall exhibit to Owner all necessary certificates as evidence of compliance with the required OSHA standards.

7. Free from Liens. Except with respect to activities for which Owner is responsible, Surf Air shall pay as due all claims for work done on, and for services rendered or material furnished to, the Premises and its Facilities, and shall keep the Property free from all liens.

8. Exclusivity. The License granted to Surf Air for the Permitted Uses shall be exclusive to Surf Air. Owner shall not license or otherwise permit the use of the Water Towers by any other persons, firms or corporations for the purpose of providing wireless broadband internet services in direct competition with Surf Air. Notwithstanding the foregoing, Owner shall have the right to lease, license or otherwise permit the use of the Water Towers for any other purposes, provided that none of such additional uses shall unreasonably interfere with the use of the Facilities placed upon the Water Towers by Surf Air.

9. Indemnification. Surf Air does hereby agree to indemnify and hold Owner harmless from any and all liability, costs, claims, demands and causes of action whatsoever which may hereafter be asserted or made against Owner as a result of Surf Air's Facilities, or as the result of the negligence or other wrongdoing of any of the employees or agents of Surf Air, or as the result of the Permitted Uses, and such obligation to indemnify shall include an obligation to defend Owner from any claims or demands made and for payment of all expenses

incurred or damages assessed against Owner, including reasonable attorney fees and costs of litigation.

10. Insurance. Surf Air agrees to keep in force and effect during the Term of this License, at its expense, a policy of commercial general liability insurance with a combined single limit coverage per occurrence for personal or bodily injury or death and property damage of not less than One Million Dollars (\$1,000,000) resulting from Surf Air's ownership, use, occupancy or maintenance of the Facilities on the Premises. The policy or policies affecting such insurance, certificates of insurance of which shall be furnished to Owner, shall name Owner as and additional insured, and shall insure any liability of Owner, contingent or otherwise, with respect to acts or omissions of Surf Air, its agents, employees or invitees or otherwise by any conduct or transaction of any of said persons in or about or concerning the Premises, including any failure of Surf Air to observe or perform any of its obligations hereunder, and shall provide that the insurance effected thereby shall not be canceled, except upon thirty (30) days' prior written notice to Owner.

11. Assignment. Surf Air shall have the right, without consent, to assign this License to: (a) any entity resulting from a merger or consolidation with Surf Air, (b) any entity succeeding to substantially all of the business and assets of Surf Air; (c) any entity controlled by, controlling or under common control with Surf Air. Notwithstanding the foregoing, except as otherwise set forth herein, Surf Air shall not assign, transfer or sublicense this License in whole or part to any person, entity or organization without the prior written consent of Owner, which consent shall not be unreasonably withheld or delayed. No such assignment shall relieve Surf Air of any future performance, liabilities and obligations under this License.

12. Termination. This License may be terminated as follows:

(a) By Owner, upon breach of any covenant or condition hereof by Surf Air and failure by Surf Air to cure said default or breach within thirty (30) days of receipt of written notice from Owner of such default, and upon such termination, Owner shall be entitled to damages sustained by it resulting from the breach, including the payment of the License Fee for the remainder of the Term and costs and expenses incurred by Owner in declaring the default, in seeking damages or performance of Surf Air or in removing the Facilities from the Premises, including reasonable attorney fees.

(b) by Owner, immediately, if (i) Surf Air becomes insolvent; or (ii) institutes or has instituted against it bankruptcy proceedings which are not dismissed within ninety (90) days of filing; or (iii) makes a general assignment for the benefit of creditors; or (iv) if a receiver is appointed for the benefit of its creditors; or (v) if a receiver is appointed on account of its insolvency; or (vi) Surf Air defaults under the provisions of that certain Right of Way Use Agreement for Broadband Internet dated _____, 2020, by and between Owner and Surf Air, and Surf Air fails to cure such default within the applicable cure period therein.

(c) By Surf Air, upon default or breach of any covenant or condition hereof by Owner, and failure by Owner to cure such default or breach within thirty (30) days of

receipt of written notice from Surf Air, and upon such termination, Surf Air shall be entitled to damages sustained by it resulting from the breach.

11. Limitation on Damages. In no event shall Owner be liable to Surf Air for any indirect, special, or consequential damages, lost profits, injury to business or reputation, lost data, business or customers, or loss of prospective profits or anticipated sales of Surf Air which result from any breach of this License by Owner. Owner shall not in any case be liable for unauthorized access or damage to, alteration, theft, destruction or loss of the Facilities and other equipment and materials of Surf Air.

12. Notices. All payments of License Fees or other amounts due hereunder, and any notice required to be given shall be deemed delivered or given when delivered personally or three (3) days after depositing in the United States Mail, First Class Postage Prepaid, in an envelope duly addressed to the parties as follows:

To Owner: City of Rock Falls
 Attn: City Clerk
 603 West 10th Street
 Rock Falls, IL 61071

To Surf Air: Surf Air Wireless
 Attn: Gregory B. Armstrong
 1705 State St.
 P.O. Box 1401
 La Porte, IN 46352

13. Disclaimer of Warranties. This License is intended only to provide Surf Air a License for the use of the Premises for the Permitted Uses, and such other rights incidental thereto. Owner provides the Premises and makes such License on an "as-is, where-is" basis and "with all faults" and makes no warranties of any kind or nature, whether expressed or implied, with respect to the Water Towers, the Premises or the License granted hereunder, including, without limitation any warranties of merchantability or fitness for a particular purpose, which are all hereby expressly disclaimed.

14. Force Majeure. Neither party shall be held in default under, or in noncompliance with, the provisions of this License, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of this License), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Facilities, governmental, administrative or judicial order or regulation or other event that is reasonably beyond such party's ability to anticipate or control. Non-compliance or default shall be corrected within a reasonable amount of time after an event of force majeure has ceased.

15. Wavier. Failure by Owner to insist upon or to take action to enforce the breach or default by Surf Air of any covenant or condition of this License shall not constitute a waiver of

the right of Owner to demand strict performance thereafter of any and all other covenants and conditions or of that same covenant or condition of this License.

16. Venue. This License shall be governed and interpreted in accordance with the laws of Illinois. Venue for any dispute arising hereunder shall be Whiteside County, Illinois, and Surf Air does hereby waive any right to demand trial by jury of any dispute or claim made under or pursuant to this License. In the event that any action shall be filed by Owner to enforce any term or provision of this License, or to collect any amount due and owing hereunder, Surf Air shall be responsible for, shall pay and reimburse Owner for all expense incurred by Owner in such action, including reasonable attorney fees and court costs.

17. Counterparts. This License may be executed in one or more counterparts, each of which when so executed shall be an original, but all of which together shall constitute one agreement. Facsimile signatures (or other form of electronic communication, such as .pdf) shall be deemed original signatures.

WHEREFORE, the Parties have executed this License as of the date and year first set forth above.

CITY OF ROCK FALLS, an
Illinois municipal corporation

By: _____
Mayor

SURF AIR WIRELESS, LLC, a
Delaware limited liability company

By: _____
Its: _____

ATTEST:

City Clerk

Schedule 2.2

<u>Exercise date on or after</u>	<u>Exercise date prior to</u>	<u>Option Price</u>
Jan. 1, 2022	Dec. 31, 2022	\$2,098,200.00
Jan. 1, 2023	Dec. 31, 2023	1,821,000.00
Jan. 1, 2024	Dec. 31, 2024	1,543,800.00
Jan. 1, 2025	Oct. 31, 2025	1,266,600.00

<u>Option Exercise Date</u>	<u>Option price (after specified Exercise Date through end of specified month)</u>
Nov. 1, 2025	\$1,012,500.00
Dec. 1, 2025	997,783.94
Jan. 1, 2026	982,994.69
Feb. 1, 2026	968,132.26
Mar. 1, 2026	953,196.64
Apr. 1, 2026	938,187.84
May 1, 2026	923,105.85
June 1, 2026	907,950.68
July 1, 2026	892,722.33
Aug. 1, 2026	877,420.79
Sept. 1, 2026	862,046.07
Oct. 1, 2026	846,598.16
Nov. 1, 2026	831,077.07
Dec. 1, 2026	815,482.79
Jan. 1, 2027	799,815.33
Feb. 1, 2027	784,074.69
Mar. 1, 2027	768,260.86
Apr. 1, 2027	752,373.85
May 1, 2027	736,413.65
June 1, 2027	720,380.27
July 1, 2027	704,273.70
Aug. 1, 2027	688,093.95
Sept. 1, 2027	671,841.02
Oct. 1, 2027	655,514.90
Nov. 1, 2027	639,115.60
Dec. 1, 2027	622,643.11
Jan. 1, 2028	606,097.44
Feb. 1, 2028	589,478.58
Mar. 1, 2028	572,786.54
Apr. 1, 2028	556,021.32
May, 2028	539,182.91
June 1, 2028	522,271.32
July 1, 2028	505,286.54

Aug. 1, 2028	488,228.58
Sept. 1, 2028	471,097.44
Oct. 1, 2028	453,893.11
Nov. 1, 2028	436,615.60
Dec. 1, 2028	419,264.90
Jan. 1, 2029	401,841.02
Feb. 1, 2029	384,343.95
Mar. 1, 2029	366,773.70
Apr. 1, 2029	349,130.27
May 1, 2029	331,413.65
June 1, 2029	313,623.85
July 1, 2029	295,760.86
Aug. 1, 2029	277,824.69
Sept. 1, 2029	259,815.33
Oct. 1, 2029	241,732.79
Nov. 1, 2029	223,577.07
Dec. 1, 2029	205,348.16
Jan. 1, 2030	187,046.07
Feb. 1, 2030	168,670.79
Mar. 1, 2030	150,222.33
Apr. 1, 2030	131,700.68
May 1, 2030	113,105.85
June 1, 2030	94,437.84
July 1, 2030	75,696.64
Aug. 1, 2030	56,882.26
Sept. 1, 2030	37,994.69
Oct. 1, 2030	19,033.94
Nov. 1, 2030	10.00

Schedule 7.1(a)

1. All rights, title and interest in and to the name "FiberNet"
2. Two thousand forty-eight (2048) IP Addresses (ARIN screenshot)

The screenshot shows the ARIN Account Manager interface. The top navigation bar includes the ARIN logo, a home icon, a feedback button, a notification bell with '1', and a user profile for 'Welcome, Wayne'. The left sidebar is titled 'ACCOUNT MANAGER' and lists various menu items: Dashboard, Tickets, Your Records, IP Addresses, ASNs, IRR Object Records, Transfer Resources, Payments & Billing, Downloads & Services, and Ask ARIN. The main content area is titled 'Organization Identifiers'. It features a yellow callout box with instructions on how to request billing authorization. Below this, there's a section for 'Org Actions' with links for 'Create Org ID' and 'Recover Org ID'. A text block explains that if an Org ID lacks a valid Admin or Tech POC, it can be recovered. The bottom section, 'Organizations Associated with Your User Account', provides a brief explanation and a table listing associated organizations.

Org Handle	Org Name
CRF-17	City of Rock Falls

The screenshot shows the ARIN Account Manager interface for 'View and Manage Your Networks'. The top navigation bar is identical to the previous screenshot. The left sidebar is also identical. The main content area is titled 'View and Manage Your Networks' and contains a section for 'View Your Associated Networks'. This section includes a filter instruction, a list of filterable attributes (IP Address or Range, Net Handle, Net Name, Org ID, Organization Name, POC Handle, Name, and/or Email Address), and an example search query: 'REGIS-123 cerf @ARIN.net'. Below the text is a search input field with a magnifying glass icon and a 'Search' button. A checkbox option is present: 'Include the 0 networks you've reassigned in your search'. At the bottom, a table displays the results of the search.

Net Handle	Net Range	Net Type	Net Name	Org ID
NET6-2604-A7C0-1	2604:A7C0::/32	Direct Allocat...	RF-FIBERNET	CRF-17
NET-162-220-153-0-1	162.220.153.0/24	Reassigned	SN-CORF-153	CRF-17
NET-216-7-80-0-1	216.7.80.0/21	Direct Allocat...	CRF-17	CRF-17

Schedule 7.1(b)

1. rockfallsfiber.net
2. 815-213-7700 (current "Helpdesk")

Schedule 7.1(c)

The books and records of the Business have been previously provided to Lessee.

Schedule 7.2(a)

Contract	Signed	Term mo	Term start	Term end	MRC	Annual	Description	mo remain	notice days	notify by date
ISPN	11/30/17	24	12/1/2019	11/30/2021	\$4,500.00	\$54,000.00	auto for 2 more yrs	14	90	8/31/2021
Syndeo to Rochelle	12/21/17	36	5/1/2018	4/30/2021	\$6,682.50	\$80,190.00	auto for 1 more yr	7	60	2/28/2021
Syndeo to Cogent	5/2/18	60	9/6/2018	9/5/2023	\$6,860.00	\$82,320.00	auto for 1 more yr	35	60	7/6/2023
Adtran MDM	36	17	2/28/2019	2/27/2022	\$375.00	3 yrs, paid mthly, no auto				
Infoblox Support	60	27	12/22/2017	12/21/2022		5 yrs at purchase, no auto				
Website (CloudNine)	12					\$790.00 annual				

School E-Rate contracts.

Funding Commitment Decision Overview

Funding Year 2020

Funding Commitment Decision Overview

Funding Request Number (FRN)	BEN Name	Amount Requested	Amount Committed	Status
2099010690	ST ANDREW SCHOOL	\$900.00	\$900.00	Funded
2099016777	EAST COLOMA ELEMENTARY SCHOOL	\$5,760.00	\$5,760.00	Funded
2099017243	ROCK FALLS TWP HIGH SCHOOL	\$16,800.00	\$16,800.00	Funded
2099039865	ROCK FALLS ELEM SCHOOL DIST 13	\$20,968.20	\$19,062.00	Funded
2099039876	ROCK FALLS ELEM SCHOOL DIST 13	\$18,900.00	\$18,900.00	Funded

Establishing FCC Form 470	SPIN	Service Provider	Service Start Date	Contract Expiration Date	Award Date	Months Of Service In Funding Year	Total Eligible Recurring Charges	Total Eligible One Time Charges
190010840	143033707	City of Rock Falls	7/1/2020	6/30/2021		12	\$1,800.00	\$0.00
200002506	143033707	City of Rock Falls	7/1/2020	6/30/2021		12	\$9,600.00	\$0.00
200011130	143033707	City of Rock Falls	7/1/2020	6/30/2025		12	\$21,000.00	\$0.00
200004715	143033707	City of Rock Falls	7/1/2020	6/30/2027	1/3/2020	12	\$21,180.00	\$0.00
200004715	143033707	City of Rock Falls	7/1/2020	6/30/2023	1/3/2020	12	\$21,000.00	\$0.00

Schedule 7.2(b)

ARIN (2048 IPs), Support Agreements and Network Management System. Months remaining is calculated from 9/10/20.

	Term mo	mo remain	Term start	Term end	Term Cost	Description
ARIN annual small Adtran Support (Walker)	12	3	1/1/2020	12/30/2020	\$1,000.00	annual, no auto
Adtran Mosaic (Walker)	12	9	6/30/2020	6/29/2021	\$7,780.00	annual, no auto
Juniper Support (Syndeo)	12	1	11/1/2019	10/31/2020	\$4,830.00	annual, no auto
	12	9	6/19/2020	6/18/2021	\$20,179.00	annual, no auto

City capital cost to achieve revenue since SAW financial modeling.

School Dist 13 - MikroTik electronics for Ethernet Private lines	\$3,558.09
Rise disconnect - purchase 5 Adtran 424 ONTs	\$940.20

Schedule 7.2(c)

None.

Schedule 7.2(d)

None.

Schedule 10.6

None.

Schedule 10.7

None.

Schedule 10.10

None.

Schedule 10.11

Address	Cust type	Mbps
300 Ave. A	TST	TST
405 Emmons Av	BUS	500
820 Ave A	RES	250
309 E 3rd St	RES	1000
105 Dixon Av	BUS	250
801 1st Av	BUS	250
120 W 2nd St	BUS	250
814 Ave A	RES	250
117 W 2nd St	BUS	250
306 E 3rd St	RES	250
811 1st Av	RES	250
218 E 3rd St	RES	250
302 E 3rd St	RES	250
205 E 3rd St	BUS	250
611 Ave A	RES	250
309 1st Av	BUS	250
1602 Dixon Rd	DIA	250
604 Ave A	PND	250
105 E 5th St	RES	1000
610 Ave A	RES	250
201 E 7th St	RES	1000
207 E 7th St	RES	250
1000 Ave A	RES	250
108 W 16th St	RES	1000
100 W 16th St	RES	250
1111 1st Ave-A	BUS	250
1409 Ave A	RES	1000
1105 Ave A	RES	250
101 E 14th St	RES	250
1405 Ave A	RES	1000
1109 Industrial Park Rd	TST	TST
1109 Industrial Park Rd	INT	1000
102 E Rock Falls Rd	BUS	1000
1904 1st Av	BUS	250
405 W Rock Falls Rd	BUS	250
701 W Rock Falls Rd	BUS	250
1700 Industrial Park Rd	BUS	250
1110 E 17th St	RES	250
4006 W Rock Falls Rd	RES	250
619 E Rock Falls Rd	RES	250

1806 New High St	RES	250
1207 E Rock Falls Rd	BUS	250
1904 New High St	RES	250
3920 W Rock Falls Rd	RES	250
1901 Harley Davidson Dr	BUS	250
604 E Rock Falls Rd	RES	250
1906 New High St	RES	250
1905 New High St	RES	250
1305 12th Av	BUS	250
301 W Rock Falls Rd	BUS	250
707 E 18th St	BUS	250
1109 Industrial Park Rd	TST	1000
2411 E Rock Falls Rd	BUS	1000
1103 Industrial Park Rd	BUS	250
2309 Prophet Rd	RES	250
500 E 5th St	BUS	250
1412 W Rock Falls Rd	BUS	250
715 15th Av	RES	250
1109 Industrial Park Rd	TST	TST
500 W Rock Falls Rd	BUS	250
1405 8th Av	BUS	250
723 W Rock Falls Rd	BUS	250
2200 1st Av	BUS	250
2105 1st Av	BUS	250
401 18th St W	BUS	250
3300 E Rock Falls Rd	BUS	1000
2100 1st Av	BUS	250
1106 E 17th St	BUS	250
911 W 11th	INT	1000
906 McNeil Rd	RES	25
715 Marsha Ln	RES	25
808 W Rock Falls Rd	BUS	250
1201 7th Av	RES	250
1303 7th Av	RES	250
2107 9th Av	TST	TST
701 11th Av	BUS	250
812 12th Av	BUS	500
2109 9th Av	INT	250
610 W 10th St	INT	250
2910 W Rock Falls Rd	BUS	250
1600 Regan Rd	BUS	250
807 Antec Rd	BUS	250
1901 8th Av	DIA	1000

100 12th Ave.	TST	TST
1309 W 2nd St	RES	1000
1305 W 2nd St	RES	250
305 14th Av	RES	1000
200 14th Av	RES	250
1409 W 2nd St	RES	250
202 14th Av	RES	250
103 Clearwater Dr	BUS	250
508 15th Av - Weight Rm	BUS	50
1300 W 2nd St	BUS	250
205 14th Av	RES	1000
101 12th Av	DIA	1000
School Dist 13 (Dillon – RFMS)	EPL	10000
School Dist 13 (RFMS – Merrill)	EPL	10000



Residential	41
Business	40
DIA	3
City	4
Test	6
Pending	1
Revenue Total	86
Device Total	94

CITY OF ROCK FALLS

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 18, ARTICLE VI, SECTION 18-152
OF THE ROCK FALLS MUNICIPAL CODE
PROHIBITING PARKING ALONG PORTIONS OF WOLF CREEK DRIVE**

ADOPTED BY THE

CITY COUNCIL

OF THE

CITY OF ROCK FALLS

THIS _____ DAY OF _____, 2020

Published in pamphlet form by authority of the City Council of the City of Rock Falls, Illinois,
this _____ day of _____, 2020.

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 18, ARTICLE VI, SECTION 18-152
OF THE ROCK FALLS MUNICIPAL CODE
PROHIBITING PARKING ALONG PORTIONS OF WOLF CREEK DRIVE**

WHEREAS, Section 11-80-2 of the Illinois Municipal Code (65 ILCS 5/1-1-1 et. seq.) authorizes the corporate authorities of any municipality to regulate the use of its streets and other municipal property within its jurisdiction; and

WHEREAS, following an investigation and survey of traffic conditions on the portion of Wolf Creek Drive bearing west from its intersection with 14th Avenue, the Ordinance/License/Personnel/Safety (“OLPS”) Committee has recommended that parking be restricted on the north and south sides of said Wolf Creek Drive from the curb to the entrance of the first residential driveways along the same; and

WHEREAS, the Corporate Authorities of the City have determined it in the best interests of the City and its residents to adopt the recommendation of the OLPS Committee and to place such restrictions on parking along Wolf Creek Drive, all as more specifically set forth herein.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Rock Falls, Whiteside County, Illinois as follows:

SECTION 1: The City hereby finds that all of the recitals contained in the preambles to this Ordinance are true and correct and does incorporate them into this Ordinance by this reference.

SECTION 2: Chapter 18, Article VI, Section 18-152(b) of the Rock Falls Municipal Code, as amended, shall be further amended by the addition of a new subsection (79) to read as follows:

“Sec. 18-152. – Prohibited areas.

(b) *Specific locations.* Parking is prohibited on the following named streets:

...

(79) The north and south side of Wolf Creek Drive from the intersection of 14th Avenue westerly to the entrance of the first residential driveways along the same.”

SECTION 3: In all other respects, Chapter 18, Article VI, Section 18-152(b) of the Rock Falls Municipal Code shall remain in full force and effect as previously adopted and/or amended.

SECTION 4: The Supervisor of the City's Street Department, or his or her designee, is hereby authorized and directed to do all such actions as are necessary or required to reflect the restrictions on parking along Wolf Creek Drive as provided for herein.

SECTION 5: The provisions and sections of this Ordinance shall be deemed to be separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

SECTION 6: The City Clerk is directed to publish this Ordinance in pamphlet form.

SECTION 7: This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Approved this _____ day of _____, 2020.

Mayor

ATTEST:

City Clerk

AYE

NAY

ORDINANCE NO. 2020-2500

WHEREAS, the City of Rock Falls Fire Department owns, and has utilized previously the following equipment:

1979 Ford Pierce Pumper – F90LVFF0924

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Rock Falls that:

1. Pursuant to the provisions of 65 ILCS 5/11-76-4, the Mayor and Deputy City Clerk are authorized and directed to sell on behalf of the City of Rock Falls, the aforementioned equipment.
2. The Mayor and Deputy City Clerk are authorized and directed to execute all documents necessary in order to complete the sale of the equipment as authorized herein.

Section 1. The City Council finds that the customary practice of requiring a first and second reading of ordinances is not applicable or necessary in the case of this ordinance, and a first reading preliminary to adoption hereof is hereby waived, and this ordinance shall become effective upon its passage.

Section 2. All prior ordinances in conflict herewith are hereby repealed.

Section 3. If any section, paragraph, sentence, clause or other portion of this ordinance is held or deemed to be unconstitutional or invalid, then such holding or finding of unconstitutionality or invalidity shall not affect the validity of the remaining provisions of this ordinance.

Section 4. This ordinance shall be effective upon its adoption, passage and publication in pamphlet form.

Passed this _____ day of _____, 2020.

William B. Wescott, Mayor

ATTEST:

Michelle K. Conklin, Deputy City Clerk

CITY OF ROCK FALLS

ORDINANCE NO. _____

**ORDINANCE APPROVING CONTRACT AND AUTHORIZING
THE PURCHASE OF REAL PROPERTY
2211 CANAL STREET, ROCK FALLS, IL 61071
PIN: 11-33-404-019**

ADOPTED BY THE
CITY COUNCIL
OF THE
CITY OF ROCK FALLS

THIS _____ DAY OF _____, 2020

Published in pamphlet form by authority of the City Council of the City of Rock Falls, Illinois,
this _____ day of _____, 2020.

ORDINANCE NO. _____

**ORDINANCE APPROVING CONTRACT AND AUTHORIZING
THE PURCHASE OF REAL PROPERTY
2211 CANAL STREET, ROCK FALLS, IL 61071
PIN: 11-33-404-019**

WHEREAS, there exists a certain residential property located within the corporate limits of the City of Rock Falls (the “City”), commonly known as 2211 Canal Street, Rock Falls, Whiteside County, Illinois 61071, with a PIN: #11-33-404-019 (the “Real Property”); and

WHEREAS, the Real Property is and has been abandoned and was further subject to a tax sale for unpaid real estate taxes; and

WHEREAS, as a result of said tax sale, Whiteside County, as Trustee, holds fee simple title to the Real Property; and

WHEREAS, pursuant to Section 2-2-12 of the Illinois Municipal Code, the City may acquire and hold real property for corporate purposes; and

WHEREAS, in an effort to encourage and facilitate further residential development within the area of the City in which the Real Property is located, the Mayor and City Council of the City (collectively, the “Corporate Authorities”) desire to purchase and acquire the Real Property on behalf of the City; and

WHEREAS, Whiteside County, as Trustee, has prepared a real estate purchase contract in the form attached hereto as Exhibit A (the “Contract”), for the purchase of the Real Property at a price of \$793.00 (the “Purchase Price”); and

WHEREAS, the Building Committee of the City has inspected the Real Property and has reviewed the Contract with respect to the purchase of the same and recommends approval of the Contract for said purchase in the form attached hereto as Exhibit A; and

WHEREAS, the Corporate Authorities find and determine that the best interests of the City and its residents will be served by acceptance of the Contract by the City and the purchase of the Real Property for the Purchase Price.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Rock Falls, Whiteside County, Illinois as follows:

SECTION 1: The preambles to this Ordinance are true and correct and are hereby incorporated into this Section 1 as if more fully set forth herein.

SECTION 2: The Contract is hereby accepted by the Corporate Authorities for the purchase of the Real Property for the Purchase Price.

SECTION 3: The City Council finds that the customary practice of requiring a first and second reading of ordinances is not applicable or necessary in the case of this ordinance, and a first reading preliminary to adoption hereof is hereby waived, and this ordinance shall become effective upon its passage.

SECTION 4: The Mayor is hereby authorized and directed to sign and the City Clerk is hereby authorized and directed to attest the Contract for the purchase of the Real Property, which Contract shall be substantially in the form attached hereto as Exhibit A.

SECTION 5: The Mayor and the City Clerk are hereby authorized, respectively, to execute and attest such other documents as may be necessary to effectuate the conveyance herein authorized.

SECTION 6: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 7: All ordinances, resolutions, motions, or parts thereof in conflict herewith and the same are hereby repealed.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage, adoption and approval in the manner provided by law.

Approved this _____ day of _____, 2020.

Mayor

ATTEST:

City Clerk

AYE

NAY

EXHIBIT A

(attach real estate contract)

WHITESIDE COUNTY TAX AGENT

TELEPHONE (618) 656-5744
TOLL FREE (800) 248-2850
FACSIMILE (618) 656-5094

141 ST. ANDREWS AVENUE
P.O. BOX 96
EDWARDSVILLE, ILLINOIS 62025

October 06, 2020

City of Rock Falls
603 W. 10th St.
Rock Falls, IL 61071

Transaction Number: 1020928
Parcel Number: 11-33-404-019

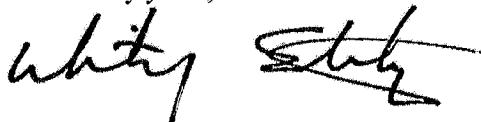
Dear Matt,

Enclosed is a purchase contract to enable the City of Rock Falls to acquire the requested parcel. The purchase price is based upon the minimum cost of acquisition and conveyance thru the county's Tax Liquidation Program.

Please return **the signed contract** along with a check in the amount of \$793.00 payable to the Whiteside County Trustee Payment Account to the address shown above. This amount is made up of \$750.00 for purchase plus \$43.00 for recording.

Upon approval by the County Board Chairman, we will return an acknowledged copy of the purchase contract and process the conveyance. If this property is being purchased for demolition, please notify the Assessor in your county and apply for an exemption when the demolition is complete. If you have any questions, please contact me.

Sincerely yours,



Whitney Strohmeier

TRANSACTION NO. 1020928



PURCHASE CONTRACT

SELLER: Whiteside County, As Trustee

PURCHASER: City of Rock Falls

SUBJECT PROPERTY: 11-33-404-019

TOTAL CONSIDERATION (Purchase Price + Recording Fee): \$793.00

SELLER agrees to sell and PURCHASER agrees to purchase, the SUBJECT PROPERTY for the TOTAL CONSIDERATION payable on execution hereof.

SELLER will convey and quitclaim the SUBJECT PROPERTY to PURCHASER within 90 days after the date hereof. The deed will be returned to PURCHASER directly from the Office of the Recorder of Deeds after recording.

SELLER makes no warranty or representation, of any kind or nature, as to the condition of title to the SUBJECT PROPERTY or as to the physical condition of any improvement thereon, each of which PURCHASER accepts "as is" and with all faults.

SELLER hereby grants to PURCHASER all of SELLER'S right of possession of the SUBJECT PROPERTY and any improvement thereon, and PURCHASER assumes such right of possession and the risk of loss or damage to any such improvement, and agrees to hold SELLER harmless and indemnified from any claim arising out of the condition thereof, as of this date. No personal property is sold or purchased hereunder.

PURCHASER hereby assumes all taxes and assessments upon the SUBJECT PREMISES beginning January 1 of the year 2021.

PURCHASER may, at its expense and option, obtain such title reports and surveys as to the SUBJECT PREMISES as PURCHASER may desire. PURCHASER shall advise SELLER in writing within 30 days after date hereof concerning any defect in the condition of title disclosed by such reports or surveys and rendering the title unmarketable. In the event of such notice, the conveyance to PURCHASER shall be delayed pending SELLER'S efforts to resolve the same. In event SELLER is unable or unwilling to cure such defects within a reasonable time after notice thereof, PURCHASER may elect to cancel and terminate this agreement and the rights and obligations of the parties hereunder; and in such event, SELLER shall refund to PURCHASER all sums paid hereunder if PURCHASER shall so elect. Failure to notify SELLER of any objectionable title defect as above said shall constitute a waiver thereof.

Neither of the parties hereto may assign or delegate the rights or obligations of such party hereunder without the prior express written consent of the other. All notices to the parties concerning the subject hereof shall be transmitted to the addresses set forth below their respective signatures.

Dated this _____ day of _____, 2020.

SELLER:

PURCHASER:

By: _____

By: _____

SELLER ADDRESS:
c/o Delinquent Tax Agent
P. O. Box 96
Edwardsville, IL 62025-0096

PURCHASER ADDRESS:
City of Rock Falls
603 W. 10th St.
Rock Falls, IL 61071

ADDENDUM TO EMPLOYMENT AGREEMENT

This Addendum to Employment Agreement is made as of this _____ day of _____, 2020, by and between the City of Rock Falls, Illinois (“Employer”) and A. Wayne Shafer (“Employee”) and is made in consideration of the mutual promises and covenants set forth and contained herein.

WHEREAS, on the 30th day of April, 2020, an Employment Agreement was executed between Employer and Employee by which Employer agreed to hire and employ Employee for the position of Superintendent of Fiber of the Fiber Department for the City of Rock Falls, said Employment Agreement being for the term of May 1, 2020 through April 30, 2021; and,

WHEREAS, Employer has entered into an agreement to lease substantially all of the assets of the Fiber Department of the City of Rock Falls to Surf Air Wireless, LLC, a Delaware limited liability company (“Surf Air”), pursuant to an Fiber Optic Infrastructure & Equipment Lease Agreement dated October _____, 2020, (the “Lease”) with the proposed closing and transfer of operations of assets to Surf Air to be completed on or before October _____, 2020; and,

WHEREAS, following closing of the Lease of assets by Employer, Employer will continue to have a financial interest in the operation of the business activities utilizing the assets leased, as contemplated by Employer and Surf Air; and,

WHEREAS, Employer desires to retain the services of Employee for a period of time following closing of the Lease of assets for the purpose of oversight of the interests of Employer, and to assist Surf Air in transition of operation of the broadband network activities from Employer to Surf Air; and,

WHEREAS, Employer contemplates that a consultant agreement setting forth the terms and conditions under which the City will permit utilization of the services of Employee in a consulting role for Surf Air following the closing of the Lease of assets, and the parties desire to modify the terms of the Employment Agreement between them in this Addendum.

NOW, THEREFORE, the parties do hereby agree as follows:

1. The statements contained in the preamble paragraphs to this Addendum are true and accurate and are incorporated herein.
2. This Addendum shall be effective as of October _____, 2020.
3. Section 2 of the Employment Agreement is modified to read as follows:

“The term of this Agreement is from May 1, 2020 through October 31, 2021, subject to early termination upon the conditions stated herein.”

4. The job description applicable to the employment of Employee is modified to provide that Employee shall report directly to the City Administrator of Employer but shall take day-to-day direction for performance of activities from appropriate supervising personnel of Surf Air. Direction from the supervising personnel of Surf Air shall take precedent over any direction generally provided by Employer except that if such direction from the supervising personnel of Surf Air would require Employee to engage in any illegal or fraudulent activity, or would require Employee to take action in conflict with Employer’s rights under the lease with Surf Air, such activity or conflict shall be immediately reported by Employee

to the City Administrator of Employer, and Employer shall be responsible for resolving the conflict. For this purpose, Employee acknowledges receipt of a copy of the lease and acknowledges knowledge of the rights thereunder accruing to the benefit of Employer.

5. Compensation payable by Employer to Employee shall remain as stated within the Employment Agreement except that commencing May 1, 2021, the compensation shall be increased by three percent (3%) for a cost of living adjustment effective prospectively from that date.

6. Except as modified by this Addendum, the other terms and provisions of the Employment Agreement shall be and remain in full force and effect.

Employee

The City of Rock Falls, Employer

A. Wayne Shafer

By: _____
William B. Wescott, Mayor

Attest: _____
Michelle Conklin, City Clerk

Public Act 101-0642

SB1863 Enrolled

LRB101 10839 HEP 55974 b

AN ACT concerning government.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Illinois Administrative Procedure Act is amended by adding Section 5-45.1 as follows:

(5 ILCS 100/5-45.1 new)

Sec. 5-45.1. Emergency rulemaking; 2020 general election. To provide for the expeditious and timely implementation of Article 2B of the Election Code, emergency rules implementing Article 2B of the Election Code may be adopted in accordance with Section 5-45 by the State Board of Elections. The adoption of emergency rules authorized by Section 5-45 and this Section is deemed to be necessary for the public interest, safety, and welfare.

This Section is repealed on January 1, 2021.

Section 10. The Election Code is amended by adding Article 2B as follows:

(10 ILCS 5/Art. 2B heading new)

ARTICLE 2B. CONDUCT OF THE 2020 GENERAL ELECTION

(10 ILCS 5/2B-1 new)

Sec. 2B-1. Purpose. Whereas protecting the health and safety of Illinoisans is among the most important functions of State government, and whereas the Coronavirus Disease 2019 (COVID-19) has resulted in declarations that COVID-19 presents a severe public health emergency by the World Health Organization, the United States government, and the Governor of Illinois, the General Assembly therefore declares it necessary and appropriate to make certain modifications to the administration and conduct of the elections for the November 2020 general election. The provisions of this Article are deemed necessary to protect the safety, health, and rights of the people of Illinois.

(10 ILCS 5/2B-5 new)

Sec. 2B-5. Application of Article.

(a) In addition to the provisions of this Code and notwithstanding any other law to the contrary, the provisions in this Article shall govern the process and procedures for the 2020 general election. The provisions of this Code shall control any aspect of the administration or conduct of the 2020 general election that is not provided for in this Article, provided that in the event of conflict between this Article and any other provision of this Code or any other law, the provisions of this Article shall control.

(b) The provisions of this Article shall apply to all election authorities, including, but not limited to, those under the jurisdiction of a Board of Election Commissioners.

(c) The provisions of this Article shall apply for the administration and conduct of the 2020 general election only.

and the provisions of this amendatory Act of the 101st General Assembly shall be in effect through January 1, 2021.

(10 ILCS 5/2B-10 new)

Sec. 2B-10. Election Day State holiday. Notwithstanding any other provision of State law to the contrary, November 3, 2020 shall be a State holiday known as 2020 General Election Day and shall be observed throughout the State. November 3, 2020 shall be deemed a legal school holiday for purposes of the School Code, State Universities Civil Service Act, and any other law designating a holiday. All government offices, with the exception of election authorities, shall be closed unless authorized to be used as a location for election day services or as a polling place.

Any school closed pursuant to this amendatory Act of the 101st General Assembly and Section 24-2 of the School Code shall be made available to an election authority as a polling place for 2020 General Election Day. The election authority and the school shall comply with all safety and health practices established by the Illinois Department of Public Health pursuant to subsection (a) of Section 2B-35. The election authority shall be eligible for reimbursement of such reasonable cleaning expenses incurred as a result of using a school as a polling place for 2020 General Election Day, subject to the receipt and availability of federal funds, pursuant to Section 2B-60.

(10 ILCS 5/2B-15 new)

Sec. 2B-15. Changes to vote by mail application process for the 2020 general election.

(a) Notwithstanding any other provision of State law to the contrary, beginning on the effective date of this Amendatory Act of the 101st General Assembly, any elector may by personal delivery, mail, email, or electronically on the website of the appropriate election authority make application for an official ballot for the 2020 general election to be sent to the elector through mail. Notwithstanding any other provision of law to the contrary, the URL address at which an elector may electronically request a vote by mail ballot shall be fixed by each election authority no later than the effective date of this Amendatory Act of the 101st General Assembly. An election authority shall accept any application submitted by an elector, including, but not limited to, the application prepared by the State Board of Elections, the election authority, or any other application submitted in a form substantially similar to that required by Section 19-3, including any substantially similar production or reproduction generated by any source or the by the applicant.

(b) No later than August 1, 2020, every election authority shall mail or email an application for an official vote by mail ballot for the 2020 general election to any elector who applied to vote an official ballot, whether by mail or in person, for any of the following elections: (1) 2018 general election; (2) 2019 consolidated election; or (3) the 2020 general primary election. No later than August 1, 2020, every election authority shall mail or email an application for an official ballot for the 2020 general election to any elector who has registered to vote or changed his or her registration address after the 2020 general primary election through July 31, 2020.

(c) In addition to providing electors with the application, the election authority shall provide any notices required by law and the following: (1) notice the elector may complete the application and return it through personal delivery, mail, email, or visit the election authority's URL to request an official ballot; (2) notice that upon completion of the

application, the elector will receive an official ballot no more than 40 days and no less than 30 days before the election; (3) an explanation that following submission of the application the elector will receive a ballot at his or her registered address or the mailing address requested by the elector, and such ballot must be completed and returned no later than election day; (4) a phone number or email address to contact the election authority if the elector does not receive an official ballot or if the elector has questions; and (5) a website or phone number the elector can use to confirm receipt of his or her official ballot. A copy of the application and the notice shall be made available on the election authority's website.

(d) The application and notice required by this Section shall be mailed to the elector's registered address and any other mailing address the election authority may have on file, including a mailing address to which a prior vote by mail ballot was mailed.

(10 ILCS 5/2B-20 new)

Sec. 2B-20. Changes for vote by mail official ballot mailing and processing.

(a) Notwithstanding any other provision of law to the contrary, an election authority shall mail official ballots to any elector requesting an official ballot no earlier than September 24, 2020. Except for electors applying under Article 20, any elector submitting an application for a vote by mail ballot on or before October 1, 2020 shall receive a ballot no later than October 6, 2020. An election authority shall mail official ballots to any elector requesting an official ballot after October 1, 2020 no later than 2 business days after receipt of the application.

(b) Notwithstanding any other provision of law to the contrary, any vote by mail ballot received by an election authority shall be presumed to meet the requirements of Articles 17, 18, and 19 and the voter shall be deemed otherwise qualified to cast a vote by mail ballot unless deemed invalid as provided in this Section.

(c) Notwithstanding any other provision of law to the contrary, within 2 days after a vote by mail ballot is received, but in all cases before the close of the period for counting provisional ballots, the election authority shall appoint panels as needed of 3 election judges, of which no more than 2 shall be from the same political party, from the list of election judges submitted by the county parties for this specific purpose to compare the voter's signature on the certification envelope of the vote by mail ballot with the signature of the voter on file in the office of the election authority. The signature shall be presumed to match unless 3 out of 3 election judges determine that the 2 signatures do not match. A vote by mail ballot may only be rejected by a vote of 3 of 3 election judges and only for the following reasons: (1) the signature on the certification envelope and the signature used by the election authority for verification purposes do not match or the certification envelope contains no signature; (2) the ballot envelope was delivered opened; (3) the voter has already cast a ballot; (4) if the voter voted in person on election day; or (5) the voter is not a duly registered voter in the precinct. If 3 of 3 election judges determine the ballot should be rejected for any reasons stated in this subsection (c), the judges shall mark across the face of the certification envelope the word "rejected" and the date and names of the judges voting to reject the ballot.

(d) If a vote by mail ballot is rejected, the election

authority shall notify the voter within 2 days after the rejection or within one day if the rejection occurs after election day and in all cases before the close of the period for counting provisional ballots. The voter shall be notified through mail or email, or both, and the notice shall inform the voter of the reason or reasons the ballot was rejected. If the ballot was rejected based on the signature or lack of a signature, the voter shall be permitted to submit a statement the voter cast the ballot, and upon receipt the ballot shall be determined valid and counted before the close of the period for counting provisional ballots. If the ballot was rejected because the envelope was delivered opened, the voter shall be permitted to vote in person or request to receive another vote by mail ballot, provided the voter submits an application and casts a new ballot prior to the close of polls on election day.

(e) Election authorities shall accept any vote by mail ballot returned, including ballots returned with insufficient or no postage, and may establish secure collection sites for the postage-free return of vote by mail ballots. Any election authority establishing such a collection site pursuant to this subsection (c) shall collect all ballots submitted each day at close of business and process them as required by this Code, including noting the day on which the ballot was submitted. Ballots submitted to such collection sites after close of business shall be dated as delivered the next day, with the exception of ballots delivered on election day, which shall be dated as received on election day. Election authorities shall permit electors to return vote by mail ballots on election day up until the close of the polls.

(f) In accordance with Section 19-7, within one day after receipt of a vote by mail ballot, the election authority shall transmit notification of receipt to the State Board of Elections. If a vote by mail ballot is rejected, the election authority must notify the State Board of Elections within one day. Upon request by a state or local political committee, within 2 days an election authority must electronically provide the names and addresses of any vote by mail ballots received and any vote by mail ballots marked rejected.

(10 ILCS 5/2B-25 new)

Sec. 2B-25. Changes for first time registrants or change of address registrations.

(a) Beginning on the effective date of this amendatory Act of the 101st General Assembly, any person completing a voter registration application or submitting a change of address shall be notified of the option to receive a vote by mail ballot. Upon request of the elector, the registration shall serve as an application to receive an official vote by mail ballot and the individual need not complete an application. Upon processing the registration, the election authority shall provide the individual with an official ballot.

(b) Upon request of the registrant, an election authority shall accept a completed voter registration form as a valid application and mail the elector an official ballot.

(c) Any person whose registration is incomplete or pending may provide any required documentation online or in person to the election authority prior to applying to vote in order to complete his or her registration.

(d) This Section shall not apply to an application processed pursuant to Section 1A-16.1 or an individual registering to vote in person at an election authority or an early voting site if the elector has the option and chooses to exercise the option to vote in person at the time of registration or in his or her precinct on election day.

(10 ILCS 5/2B-30 new)

Sec. 2B-30. Public dissemination of information prior to the 2020 general election.

(a) Beginning on the effective date of this amendatory Act of the 101st General Assembly through October 30, 2020, all election authorities shall include information about registering to vote and encouraging electors to vote by mail or during early voting with any pamphlet, brochure, flyer, or newsletter related to the 2020 General Election. Any such documents shall substantially include the following, "Due to COVID-19, all 2020 General Election voters are encouraged to cast a ballot prior to Election Day, either by mail or during early voting. Voting by mail is an easy option for voters and you can request a vote by mail ballot through email, mail, or in person. An application is available from your local election authority or at <https://elections.il.gov/electionoperations/VotingByMail.aspx>. To register to vote or check your registration status, visit <https://ova.elections.il.gov>."

(b) The Secretary of State shall include in any pamphlet or materials produced in accordance with the Illinois Constitutional Amendment Act the following language, "Due to COVID-19, all 2020 General Election voters are encouraged to cast a ballot prior to Election Day, either by mail or during early voting. Voting by mail is an easy option for voters and you can request a vote by mail ballot through email, mail, or in person. An application is available from your local election authority or at <https://elections.il.gov/electionoperations/VotingByMail.aspx>. To register to vote or check your registration status, visit <https://ova.elections.il.gov>."

(c) No later than September 15, 2020, the Secretary of State shall send a notice to any elector who received an application but has not yet applied for a vote by mail ballot. The list of electors to receive the notification shall be provided by the State Board of Elections. The notice shall include, at a minimum: (1) notice that the elector previously received correspondence from the applicable election authority with information on how to apply for a vote by mail ballot, that the election authority has indicated the elector has not yet applied for a ballot, and the elector still has time to request a vote by mail ballot; and (2) a reference to a phone number, email address, and website the elector can visit to complete an application, return an application, or get additional information about vote by mail.

(d) No later than October 15, 2020, the Secretary of State shall send a notice to any elector who received the notice required in subsection (c) but has not yet applied for a vote by mail ballot. The notice shall include, at a minimum: (1) a statement that the elector has time to request a vote by mail ballot; and (2) a reference to a phone number, email address, and website the elector can visit to complete an application, return an application, or get additional information about vote by mail.

(10 ILCS 5/2B-35 new)

Sec. 2B-35. Early voting and election day requirements.

(a) Election authorities shall comply with any early voting and election day safety and health practices established in written guidance provided to the election authorities by the Illinois Department of Public Health.

(b) Election authorities may establish curbside voting for individuals to cast a ballot during early voting or on election day. A curbside voting program shall designate at

least 2 election judges from opposite parties per vehicle and the individual must have the option to mark the ballot without interference from the election judges.

(c) Notwithstanding any law to the contrary, election authorities shall establish one location to be located at an office of the election authority or in the largest municipality within its jurisdiction where all voters in its jurisdiction are allowed to vote on election day during polling place hours, regardless of the precinct in which they are registered. An election authority establishing such a location pursuant to this subsection (c) shall identify the location, hours of operation, and health and safety requirements by the 40th day preceding 2020 General Election Day and certify such to the State Board of Election.

(d) In addition to the requirements of Section 19A-15, beginning the 15th day preceding 2020 General Election Day, all permanent polling places for early voting shall remain open during the hours of 8:30 a.m. to 7:00 p.m. on weekdays and 9:00 a.m. to 5:00 p.m. on Saturdays, Sundays, and holidays. Election authorities may establish early voting hours in addition to those required by this subsection (d) to accommodate voters to whom COVID-19 presents increased health risks, including, but not limited to, the administration of a curb-side voting program established by the election authority pursuant to this Section.

(e) Notwithstanding any law to the contrary, a provisional ballot cast under item (7) of subsection (a) of Section 18A-5 shall be deemed valid and counted as a vote if the voter provides the election authority with the necessary documentation within 14 days of election day.

(10 ILCS 5/2B-40 new)

Sec. 2B-40. Judges of election.

(a) All laws and rules regarding the provisions of election judges shall be in effect for the 2020 general election, provided that notwithstanding any law to the contrary, any individual may be appointed to serve as an election judge if, as of the date of the election at which the person serves as judge, he or she has attained the age of 16.

Prior to appointment, a judge qualifying under this subsection (a) must certify in writing to the election authority the political party the judge chooses to affiliate with.

(b) All public and private secondary schools, community colleges, and universities shall publish notification on their publicly accessible websites and notify their students of the opportunity to serve as an election judge for the 2020 general election and the qualifications provided in subsection (a).

(c) The Department of Employment Security shall publish notification on its publicly accessible website that anyone receiving unemployment insurance may apply to serve as an election judge for the 2020 general election and the qualifications provided in subsection (a).

(d) Notwithstanding any law to the contrary, counties having a population of less than 250,000 pursuant to the 2010 U.S. Census, may appoint 3 judges of election to serve in lieu of the 5 judges of election required by this Code for the 2020 general election, unless such judges of election are appointed by election commissioners.

(10 ILCS 5/2B-45 new)

Sec. 2B-45. Electronic service of objections. Election authorities may authorize service of objections to candidate nominations through electronic mail in lieu of personal service if the election authority responsible for convening the

electoral board:

(1) requires candidates to provide an electronic mail address where notices of objections and electoral board proceedings may be sent electronically in lieu of personal service;

(2) requires objectors to provide an electronic mail address where notices and electoral board proceedings may be sent electronically in lieu of personal service; and

(3) publishes notice of its decision to utilize this Section on its website within 5 business days of the effective date of this amendatory Act of the 101st General Assembly.

(10 ILCS 5/2B-50 new)

Sec. 2B-50. Additional duties of election authorities.

(a) Each election authority shall comply with the requirements of Section 2B-15. Each election authority shall provide the following to the State Board of Elections as it relates to Section 2B-15: (1), no later than August 2, 2020, each election authority shall provide to the State Board of Elections written confirmation that the election authority complied with subsections (b), (c), and (d) of Section 2B-15 and provide an electronic list of the names and addresses of every elector sent the required application and notice; (2) no later than September 2, 2020, each election authority shall provide the State Board of Elections with an electronic list of the names and addresses of every elector sent the required application and notice who has submitted the application and will receive an official ballot; and (3) no later than October 2, 2020, each election authority shall provide the State Board of Elections with an updated list of the names and addresses of every elector sent the required application and notice who has submitted the application and will receive an official ballot. Any list submitted to the State Board of Elections shall be accessible to State and local political candidates and committees.

(b) No later than 75 days prior to the 2020 general election, each election authority shall provide public notice of its services and equipment available to assist elderly voters and voters with disabilities. The notice shall include, but is not limited to, the availability of vote by mail ballots in braille and large format, assistance in marking the ballot, procedures for voting by vote by mail ballot, and procedures for voting early by personal appearance.

(10 ILCS 5/2B-55 new)

Sec. 2B-55. Additional duties of the State Board of Elections.

(a) No later than 2 business days after the effective date of this amendatory Act of the 101st General Assembly, the State Board of Elections shall post on its official website an application for an official vote by mail ballot for the 2020 general election. The application shall be available at <https://elections.il.gov/electionoperations/VotingByMail.aspx>. Any applications received by the State Board of Elections shall be transmitted within 2 business days of receipt to the appropriate election authority.

(b) Within 5 business days of the effective date of this amendatory Act of the 101st General Assembly, the State Board of Elections shall modify the online voter registration system to allow any new registrant to apply for a vote by mail ballot when completing online voter registration. Any new registrant that requests a vote by mail ballot when registering shall be

eligible to request and receive a vote by mail ballot for the 2020 general election without submitting an additional application.

(c) Within 10 business days of the effective date of this amendatory Act of the 101st General Assembly, the State Board of Elections shall provide notice to all election authorities of the provisions of this amendatory Act of the 101st General Assembly and the actions each election authority must take to comply with this amendatory Act of the 101st General Assembly. A copy of this notice shall be made available on the State Board of Election's official website.

(d) The State Board of Elections shall transmit to the Secretary of State, in the format requested by the Secretary of State, a complete list of the names and addresses submitted to the State Board of Elections by the election authorities in accordance with subsection (a) of Section 2B-50. The first transmission shall be sent no later than September 5, 2020 and the second transmission no later than October 5, 2020. Upon request, the lists shall also be made available by the State Board of Elections to State and local political committees and candidates upon request.

(e) Except as provided in this Article, the State Board of Elections does not need to adopt rules to administer or enforce the duties and requirements set forth in this amendatory Act of the 101st General Assembly but may adopt such emergency rules if deemed necessary by the State Board of Elections. The absence of rules or emergency rules does not eliminate or reduce the rights, duties, or responsibilities set forth in this amendatory Act of the 101st General Assembly.

(10 ILCS 5/2B-60 new)

Sec. 2B-60. Reimbursement for 2020 general election expenses.

(a) Each election authority shall comply with the requirements of this amendatory Act of the 101st General Assembly. The State Board of Elections may withhold any reimbursements for election related costs if an election authority is found to have failed to comply with the provisions of this amendatory Act of the 101st General Assembly.

(b) Subject to receipt and availability of federal funds, the State Board of Elections may adopt emergency rules subject to the provisions of Section 5-45 of the Illinois Administrative Procedure Act to establish a program to provide reimbursement to election authorities for expenses related to the 2020 general election incurred as a result of COVID-19 and the requirements of this amendatory Act of the 101st General Assembly that are deemed necessary for the safety of the public and in response to COVID-19.

(10 ILCS 5/2B-90 new)

Sec. 2B-90. Repeal. This Article shall repeal on January 1, 2021.

Section 15. The Illinois Procurement Code is amended by changing Section 15-45 as follows:

(30 ILCS 500/15-45)

Sec. 15-45. Computation of days. The time within which any act provided in this Code is to be done shall be computed by excluding the first day and including the last, unless the last day is Saturday or Sunday or is a holiday, and then it shall also be excluded. If the day succeeding a Saturday, Sunday, or holiday is also a holiday, a Saturday, or a Sunday, then that succeeding day shall also be excluded. For the purposes of this Code, "holiday" means: New Year's Day; Dr. Martin Luther King,

Jr.'s Birthday; Lincoln's Birthday; President's Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day; Christmas Day; and any other day from time to time declared by the President of the United States or the Governor of Illinois to be a day during which the agencies of the State of Illinois that are ordinarily open to do business with the public shall be closed for business.

Notwithstanding any other provision of State law to the contrary, November 3, 2020 shall be a State holiday known as 2020 General Election Day and shall be observed throughout the State pursuant to this amendatory Act of the 101st General Assembly.

(Source: P.A. 98-1076, eff. 1-1-15.)

Section 20. The School Code is amended by changing Section 24-2 as follows:

(105 ILCS 5/24-2) (from Ch. 122, par. 24-2)

Sec. 24-2. Holidays.

(a) Teachers shall not be required to teach on Saturdays, nor, except as provided in subsection (b) of this Section, shall teachers or other school employees, other than noncertificated school employees whose presence is necessary because of an emergency or for the continued operation and maintenance of school facilities or property, be required to work on legal school holidays, which are January 1, New Year's Day; the third Monday in January, the Birthday of Dr. Martin Luther King, Jr.; February 12, the Birthday of President Abraham Lincoln; the first Monday in March (to be known as Casimir Pulaski's birthday); Good Friday; the day designated as Memorial Day by federal law; July 4, Independence Day; the first Monday in September, Labor Day; the second Monday in October, Columbus Day; November 11, Veterans' Day; the Thursday in November commonly called Thanksgiving Day; and December 25, Christmas Day. School boards may grant special holidays whenever in their judgment such action is advisable. No deduction shall be made from the time or compensation of a school employee on account of any legal or special holiday.

(b) A school board or other entity eligible to apply for waivers and modifications under Section 2-3.25g of this Code is authorized to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on the third Monday in January (the Birthday of Dr. Martin Luther King, Jr.); February 12 (the Birthday of President Abraham Lincoln); the first Monday in March (known as Casimir Pulaski's birthday); the second Monday in October (Columbus Day); and November 11 (Veterans' Day), provided that:

(1) the person or persons honored by the holiday are recognized through instructional activities conducted on that day or, if the day is not used for student attendance, on the first school day preceding or following that day; and

(2) the entity that chooses to exercise this authority first holds a public hearing about the proposal. The entity shall provide notice preceding the public hearing to both educators and parents. The notice shall set forth the time, date, and place of the hearing, describe the proposal, and indicate that the entity will take testimony from educators and parents about the proposal.

(c) Commemorative holidays, which recognize specified patriotic, civic, cultural or historical persons, activities, or events, are regular school days. Commemorative holidays are: January 28 (to be known as Christa McAuliffe Day and observed as a commemoration of space exploration), February 15 (the

birthday of Susan B. Anthony), March 29 (Viet Nam War Veterans' Day), September 11 (September 11th Day of Remembrance), the school day immediately preceding Veterans' Day (Korean War Veterans' Day), October 1 (Recycling Day), October 7 (Iraq and Afghanistan Veterans Remembrance Day), December 7 (Pearl Harbor Veterans' Day), and any day so appointed by the President or Governor. School boards may establish commemorative holidays whenever in their judgment such action is advisable. School boards shall include instruction relative to commemorated persons, activities, or events on the commemorative holiday or at any other time during the school year and at any point in the curriculum when such instruction may be deemed appropriate. The State Board of Education shall prepare and make available to school boards instructional materials relative to commemorated persons, activities, or events which may be used by school boards in conjunction with any instruction provided pursuant to this paragraph.

(d) City of Chicago School District 299 shall observe March 4 of each year as a commemorative holiday. This holiday shall be known as Mayors' Day which shall be a day to commemorate and be reminded of the past Chief Executive Officers of the City of Chicago, and in particular the late Mayor Richard J. Daley and the late Mayor Harold Washington. If March 4 falls on a Saturday or Sunday, Mayors' Day shall be observed on the following Monday.

(e) Notwithstanding any other provision of State law to the contrary, November 3, 2020 shall be a State holiday known as 2020 General Election Day and shall be observed throughout the State pursuant to this amendatory Act of the 101st General Assembly. All government offices, with the exception of election authorities, shall be closed unless authorized to be used as a location for election day services or as a polling place.

(Source: P.A. 98-156, eff. 8-2-13.)

Section 25. The State Universities Civil Service Act is amended by changing Section 45a as follows:

(110 ILCS 70/45a) (from Ch. 24 1/2, par. 381.1)

Sec. 45a. Except as provided in the second sentence of this Section, all officers and employees subject to this Act, shall have the following days as holidays, for which they shall receive their usual compensation: New Year's Day, January 1, Memorial Day, as determined by the law of the State of Illinois, Independence Day, July 4, Labor Day, the first Monday in September, Thanksgiving Day, the fourth Thursday of November, Christmas Day, December 25, and five holidays to be designated by each college, university, agency and community college subject to this Act. Craft and trade employees subject to this Act shall be paid for all paid holidays included in their area agreement, and will be paid for all five holidays designated by their employer pursuant to this section.

Notwithstanding any other provision of State law to the contrary, November 3, 2020 shall be a State holiday known as 2020 General Election Day and shall be observed throughout the State pursuant to this amendatory Act of the 101st General Assembly. All government offices, with the exception of election authorities, shall be closed unless authorized to be used as a location for election day services or as a polling place.

(Source: P.A. 79-1186.)

Section 99. Effective date. This Act takes effect upon becoming law.

Effective Date: 06/16/2020