

SUBJECT: RESOLUTION NO. 56, SERIES 2024 – A RESOLUTION APPROVING AN ASSIGNMENT AND ASSUMPTION OF REVOCABLE LICENSE AGREEMENT BETWEEN THE CITY AND BIF IV INTREPID OPCO LLC

DATE: NOVEMBER 19, 2024

PRESENTED BY: CAMERON FOWLKES, CITY ENGINEER

SUMMARY: By Resolution No. 3, Series 2024, adopted on January 16, 2024, the City Council approved a Revocable License Agreement with BIF IV Intrepid OpCo LLC (“Intrepid”) for the installation of fiber optic cables and conduit within City rights-of-way in connection with the Intrepid fiber network.

Intrepid has informed the City it has established a new legal entity, Intrepid Cohort 1 LLC (“Intrepid Cohort”), to facilitate the financing for build-out of the Louisville network and has requested the City Council approve assignment of the License Agreement to this new entity.

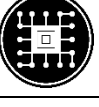
FISCAL IMPACT: None

RECOMMENDATION: City Council approve the assignment of the license agreement from BIF IV Intrepid OpCo LLC to Intrepid Cohort 1 LLC.

ATTACHMENT(S):

1. Resolution No. 56, Series 2024
2. Assignment and Assumption
3. Revocable License Agreement dated January 16, 2024

STRATEGIC PLAN IMPACT:

☐		Financial Stewardship & Asset Management	☐		Reliable Core Services
☐		Vibrant Economic Climate	☐		Quality Programs & Amenities
☐		Engaged Community	☐		Healthy Workforce
☐		Supportive Technology	☐		Collaborative Regional Partner

**RESOLUTION NO. 56
SERIES 2024**

**A RESOLUTION APPROVING AN ASSIGNMENT AND ASSUMPTION OF
REVOCABLE LICENSE AGREEMENT BETWEEN THE CITY AND BIF IV INTREPID
OPCO LLC**

WHEREAS, by Resolution No. 3, Series 2024, adopted on January 16, 2024, the City Council approved a Revocable License Agreement with BIF IV Intrepid OpCo LLC (“Intrepid”) for the installation of fiber optic cables and conduit within City rights-of-way in connection with the Intrepid fiber network; and

WHEREAS, Intrepid has informed the City it has established a new legal entity, Intrepid Cohort 1 LLC (“Intrepid Cohort”), to facilitate the financing for build-out of the Louisville network, and in connection therewith has requested the City Council approve assignment of the License Agreement to this new entity as set forth in the Assignment and Assumption between Intrepid, as Assignor, Intrepid Cohort, as Assignee, and the City, as Counterparty, a copy of which Assignment and Assumption accompanies this resolution; and

WHEREAS, the City Council by this resolution desires to approve the Assignment and Assumption and authorize the Mayor to sign it on behalf of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO THAT:

1. The City Council hereby approves the Assignment and Assumption of the Revocable License Agreement between the City and BIF IV Intrepid OpCo LLC in essentially the form of the Assignment and Assumption that accompanies this resolution.
2. The Mayor is hereby authorized to execute the Assignment and Assumption, and is further authorized to negotiate such revisions to such Assignment and Assumption as the Mayor determines are necessary or desirable for the City, so long as the essential terms and conditions of the Assignment and Assumption are not altered.

PASSED AND ADOPTED this 19th day of November 2024.

Christopher M. Leh, Mayor

Attest:

Genny Kline, Interim City Clerk

ASSIGNMENT AND ASSUMPTION

KNOW THAT BY THIS ASSIGNMENT AND ASSUMPTION (this “**Assignment**”) as of [____], 2024, BIF IV Intrepid OpCo LLC, a Delaware limited liability company, having an address at 11001 W 120th Ave, Ste 305, Broomfield, CO 80021-3493 (“**Assignor**”), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants, sells, transfers, delivers, sets-over and conveys to Intrepid Cohort 1 LLC, a Delaware limited liability company, having an address at 11001 W 120th Ave, Ste 305, Broomfield, CO 80021-3493 (“**Assignee**”), all right, title and interest and obligations of Assignor in, to and under or arising out of:

(a) those documents set forth in Exhibit A entered into with the City of Louisville, a Colorado municipal corporation (“**Counterparty**”), and attached hereto and made a part hereof (collectively, the “**Document**”);

(b) all guaranties, insurance policies, indemnifications, releases, affidavits, certificates, certificates of deposit, performance bonds, letters of credit and other documents, reports, opinions, agreements and instruments executed and/or delivered in connection with the Document;

(c) all assignments and/or pledges, whether direct or collateral, beneficial or equitable interests, proceeds, royalties, contracts, plans, specifications, permits, licenses, reserves, holdbacks, escrows, deposits, accounts, stocks, bonds and securities in connection with the Document;

(d) all modifications, amendments, consolidations, renewals, extensions or restatements of any of the foregoing; and

(e) all demands, claims, causes of action and judgments relating to any of the foregoing and all rights accrued or to accrue thereunder.

Assignee hereby accepts the foregoing assignment and assumes all of the rights and obligations of Assignor arising after the date hereof out of the Document and other interests so assigned.

TO HAVE AND TO HOLD the same unto Assignee, its successors and assigns, forever.

Except as provided explicitly below, this Assignment is made by Assignor and assumed and accepted by Assignee without any guarantee, representation or warranty of any kind on the part of Assignor and without recourse to Assignor in any event or for any cause. Assignor hereby warrants and represents to Assignee that:

(a) Prior to the execution hereof, Assignor has not sold, transferred, assigned, conveyed, pledged or endorsed any right, title or interest in the Document to any person or entity other than Assignee; and

(b) Assignor has full right and power to sell and assign the same to Assignee subject to no agreement with any party other than Assignee.

Counterparty hereby acknowledges and agrees that, on and from the date of this Assignment:

(a) Counterparty shall perform its obligations under the Document for the benefit of the Assignee in the same manner as such performance would be required thereunder for the Assignor; and

(b) Counterparty shall accept performance under the Document by Assignee in the same manner as if such performance would have been rendered by the Assignor.

Counterparty further acknowledges and agrees that Assignee intends to grant a security interest in the Document in favor of Société Générale in its capacity as collateral agent for certain financial institutions that are providing financing to Assignee and certain of its affiliates pursuant to financing agreements executed on July 5, 2024, and Counterparty hereby consents to such collateral assignment.

This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

Whenever the context so requires in this Assignment, all words used in the singular shall be construed to have been used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word "person" shall be construed to include a natural person, a corporation, a firm, a partnership, a joint venture, a trust, an estate or any other entity.

Each provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Assignment or the application of such provision to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Assignment, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability.

Assignor hereby agrees to execute such other assignments, instruments and other documents as Assignee may reasonably request in confirmation of, and/or in furtherance of, the assignment made hereunder.

THIS ASSIGNMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF COLORADO.

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IN WITNESS WHEREOF, Assignor, Assignee and Counterparty have duly executed this Assignment as of the date first set forth above.

ASSIGNOR:

BIF IV Intrepid OpCo LLC,
a Delaware limited liability company

By: _____
Name: John F. Waters Jr.
Title: CEO

ASSIGNEE:

Intrepid Cohort 1 LLC,
a Delaware limited liability company

By:

Name:	John F. Waters Jr.
Title:	CEO

COUNTERPARTY:

City of Louisville,
a Colorado municipal corporation

By: _____

Name: Christopher M. Leh

Title: Mayor

Exhibit A

Document

1. Revocable License Agreement, dated as of January 16, 2024, by and between City of Louisville and BIF IV Intrepid OpCo LLC

REVOCABLE LICENSE AGREEMENT

THIS AGREEMENT is entered into this 16th day of January, 2024, by and between the City of Louisville, a Colorado Municipal Corporation (hereinafter referred to as "City") and BIF IV Intrepid OpCo LLC (hereinafter referred to as "Licensee").

WITNESSETH:

WHEREAS, City is a Colorado home rule city organized and existing under and by virtue of Article XX of the Colorado Constitution and possesses plenary power and authority over the use and occupation of the public rights of way within its corporate boundaries; and

WHEREAS, Licensee represents and warrants: (a) that it is a Telecommunications Provider" as that term is defined in Section 7 of Article I; and (b) that it operates within the geographical boundaries of the City of Louisville; and

WHEREAS, Licensee provides its Telecommunications Services to customers over a network owned, controlled, or leased by Licensee which lines are authorized pursuant to franchise, license agreement or revocable permit; and

WHEREAS, Licensee may wish to install Facilities upon or within certain public rights of way within the corporate boundaries of the City in order to provide Telecommunications Services; and

WHEREAS, City is authorized under the constitution and laws of the State of Colorado to grant consent to Telecommunications Providers to occupy the public rights of way for such purposes; provided, however, the same shall not be nor constitute the granting of a local franchise under Article XI of the City of Louisville Home Rule Charter (the "Charter"), nor shall same ever become or ripen into any franchise; and

WHEREAS, as part of the consideration for Licensee's use of the City's public rights of way, Licensee has agreed to install and dedicate to the City certain fiber and conduit for municipal use in accordance with this Agreement; and

WHEREAS, the City and Licensee have agreed to be bound by the terms and conditions set forth herein which shall govern Licensee's use of the public rights of way and the City Project (defined below);

NOW, THEREFORE, in consideration of the foregoing recitals and the terms, conditions, and mutual promises set forth herein, the parties agree as follows:

ARTICLE I - DEFINITIONS

As used in this License Agreement, the following terms, phrases, and words shall be ascribed the following meanings, unless the context indicates otherwise. As used in this License Agreement, the word "shall" is mandatory, and the word "may" is permissive. Words not defined

herein shall be given their common and ordinary meanings, consistent with the context in which such words are used and the purposes of this License Agreement.

1. "Telecommunications Act" shall mean the Telecommunications Act of 1996 (47 U.S.C. §151, et seq.), as amended.

2. (a) "Facilities" means all physical components of the Licensee used to provide Telecommunications Services which are located, or to become located pursuant to this License Agreement, within the City and are reasonably necessary, useful or convenient to provide Telecommunications Services within the territorial boundaries of the City, including without limitation, poles, wires, cables, pipes, underground conduits, ducts, manholes, vaults, fiber optic cables and devices, switches, equipment boxes and sheds and other structures and appurtenances. This term shall also include any Facilities which were installed under any prior License Agreement between the City and Licensee.

(b) "Leased Facilities" means all physical components used by Licensee to provide Telecommunications Services which are leased to Licensee by third parties who are authorized by separate instruments to maintain same within Rights of Way within the City.

3. "Account" shall mean each telephone or telecommunications access line or twisted pair equivalent provided by or on behalf of Licensee, if Licensee provides any type of local exchange service, at a customer's premises over which the customer may send or receive any telephone, telegraph, fax, data, video or other similar telecommunications signals; except that "Account" shall not include any customer line used solely for receipt of cable television programming. Provision of a T1 or DS1 line furnished by Licensee to a customer which is connected to switched access service or local exchange service shall be counted as twenty-four (24) accounts; provision of a T3/DS3 shall be counted as six hundred seventy-two (672) accounts.

4. "Jurisdiction" shall mean within the corporate boundaries of the City of Louisville as now or hereafter constituted.

5. "Rights of Way" shall mean all streets, roadways, sidewalks and alleys, and all other areas reserved for present or future use by the public, as a matter of right, for the purpose of vehicular or pedestrian travel as defined in Section 17.08.410 of the Louisville Municipal Code.

6. "LMC" shall mean the Municipal Code of the City of Louisville, as amended, and as same may be amended in the future.

7. "Telecommunications Provider" shall (1) have the meaning as that term is defined under Colorado and federal law, including but not limited to § 38-5.5-102(3), C.R.S. and 47 U.S.C. § 153(51) and (2) also include, solely for the purposes of this Agreement, the term "broadband provider" as that term is defined in § 38-5.5-102(1.3), C.R.S., except that for purposes of this Agreement this term shall not include a cable operator.

8. "Telecommunications Services" shall (1) have the meaning as that term is defined under Colorado and federal law, including but not limited to 47 U.S.C. § 153(53) and (2) also

include, solely for the purposes of this Agreement, the term “broadband service” as that term is defined in § 38-5.5-102(1), C.R.S., except that for purposes of this Agreement this term shall not include cable services.

9. “Wireless Communications Facility” or “WCF” means a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services.

10. “Fiber” means six (6) strand, single mode, dark fiber capable of achieving ten (10) gigabits per second (Gbps) connection speeds, unless a different specification and/or performance standard is approved in accordance with Article IV, Section 3 hereof.

11. “City Fiber” means fiber provided, constructed and installed by Licensee and dedicated to the City for the City’s exclusive use.

12. “Shared Fiber” means fiber provided, constructed and installed by Licensee, and dedicated to the City for shared use with Licensee.

13. “City Conduit” means conduit provided, constructed and installed by Licensee and dedicated to the City for the City’s exclusive use.

14. “City Project” has the meaning set forth in Article IV, Section 3.

15. “Licensee” shall include Licensee’s authorized subcontractors.

ARTICLE II - CONDITIONAL CONSENT GRANTED

1. Subject to Licensee's compliance at all times with all of the terms and conditions of this License Agreement, all of the ordinances referenced herein, all applicable local, state and federal laws, and further subject to the City's lawful exercise of its police power (including, but not limited to, zoning, subdivision, permit and building code requirements) and the City's prior and superior right to usage for municipal purposes, City hereby grants to Licensee, insofar as it has or may have the requisite power and authority to do so, a non-exclusive and revocable license to make reasonable use of those specific portions of the Rights of Way depicted in Exhibit A, attached hereto and incorporated herein by this reference (the “Premises”), for the sole purposes of constructing, installing, operating, maintaining, repairing, replacing, and removing Licensee's Facilities. Should Licensee desire to expand the Premises, Licensee shall submit an application for a right-of-way permit pursuant to Chapter 12.12 of the Louisville Municipal Code. The City’s Director of Public Works, or the Director’s designee (the “Director”), may grant, grant with conditions, or deny such request in such official’s discretion. The Director shall notify Licensee of the decision in writing. If the Director issues the permit, then the Licensee shall prepare, and submit to the Director for approval, an updated exhibit (in form similar to Exhibit A), depicting the whole of the Premises, including the extended area, to replace the diagram attached hereto as Exhibit “A.” The updated Exhibit “A” shall be attached to and become a part of this Agreement, without the

need for a formal written amendment, upon the Director's written approval of the same, and the area described and depicted thereon shall be deemed to form the Premises. The foregoing notwithstanding, the Licensee must separately obtain consent from the Colorado Department of Transportation with respect to state highways. The Premises, including any approved expansions thereof, is being licensed to Licensee "as-is" without warranty of any kind, express or implied, including any warranty of merchantability or fitness for a particular purpose. Within thirty (30) days following the installation or relocation of any communication conduit, fiber optic cable, and/or appurtenant facilities within the Premises, Licensee shall provide the City with detailed drawings showing the as-built location of such Facilities. As-built drawings may be provided electronically.

2. The license granted herein to make reasonable use of the Rights of Way shall not be deemed to be a franchise, nor an exclusive license or right, and the City reserves the right to make or grant a similar use of the Rights of Way to any other person or persons, including one or more other Telecommunications Providers. Licensee understands and agrees that the license granted hereunder is granted subject to prior franchise agreements and subject to all easements and other interests of record applicable to the Premises. Licensee shall be solely responsible for coordinating its activities hereunder with the holders of such franchise agreements or of such easements or other interests of record, and for obtaining any required permission for such activities from such holders if required by the terms of such franchises or easements or other interests.

3. The City retains the following rights in regard to this license:

(a) To revoke the license and consent hereby granted for misuse, non-use or failure of Licensee to comply with the provisions hereof;

(b) To use, control and regulate the use of the City streets, roads, easements, other public places and the Rights of Way, and the space above and beneath the same;

(c) To require the removal or relocation of any of the Facilities from the Rights of Way if necessary or desirable for any public or municipal purpose or project, as determined at the sole discretion of the City, which judgment must be exercised in a reasonable manner; and

(d) To require a separate permit for each site or excavation upon which Licensee would otherwise be required to obtain such a permit under Chapter 12.12 of the LMC. Each permit application shall include information as to the appearance, size, description, proposed location of, and any other information pertinent to, any aerial installations proposed for attachment to existing light poles, which installations require the City's written approval, in addition to application to and approval from the owner of the subject pole(s) (e.g., Xcel Energy or Lumen, as applicable). Aerial installations proposed for attachment to light poles must comply with all requirements of Chapter 17.42 of the LMC applicable to "small cell facilities," excepting any requirements the City's Director of Public works has waived in writing upon a finding that such requirements are not applicable to, or are unnecessary for, the City's review of the aerial installations proposed in the permit application. Notwithstanding the foregoing, the City's Director of Public Works may not waive the requirements that require the installation to utilize camouflage

and concealment design techniques, and that limit the height of each installation to the height of the existing infrastructure on which it is mounted *plus* no more than five (5) additional feet. Licensee shall accompany each permit application with a detailed public information plan, for City review and approval, which plan shall contain, at minimum, a description of Company's planned efforts to provide regular progress updates to Louisville residents while the work performed under the permit is ongoing, such as a webpage, mailed notices, flyers, or a combination thereof, and the method by which Licensee will answer resident questions concerning the work performed under the permit. When approved by the City, the terms of each permit and public information plan will be automatically incorporated into this License Agreement as if fully set forth herein, without further action by the parties.

(e) To enter into the Premises at any time during the term of this License Agreement for any purpose of the City. If such entry requires disturbance of Licensee's Facilities, the City shall provide Licensee with at least three (3) days written notice and shall perform underground locates as required by Colorado law, except in the case of emergencies, in which the City shall endeavor to provide Licensee with notice as soon as practically possible. The City shall not be required to repair or replace any such disturbance. The City shall have the right to place improvements on the Premises.

4. The license granted herein to make reasonable use of the Premises shall not be deemed to grant authorization to construct or operate Wireless Communications Facilities. Authorization to utilize the Rights of Way for Wireless Communications Facilities must be obtained through separate authorization specifically permitting the use of the Rights of Way for Wireless Communications Facilities.

ARTICLE III - SCOPE

The license and consent granted by this License Agreement confers only the right to make reasonable use of the Premises for Licensee's provision of Telecommunications Services, and it is expressly understood and agreed to by Licensee that Licensee shall not operate a private telecommunications network, Wireless Communications Facilities, nor operate as a "cable operator" as that term is defined under federal law (47 U.S.C. §522(5)), nor shall it provide or offer to provide "cable services" as that term as defined under federal law (47 U.S.C. §522(6)), without proper local, state and federal authorization, as required by law.

ARTICLE IV – FEES AND OTHER CONSIDERATION

1. **Building Permit and Right of Way Permit Fees** – Licensee shall pay in advance to Licensor any building permit fees and right of way permit fees as outlined in Titles 12 and 15 of the LMC; provided that, such fees are waived for work specifically integrated into the City Project (defined in subsection 3(a), below).

2. **Payment of Fees to Licensor** – Licensee shall pay Licensor the fees specified in this Article in the form of a money transfer or a check made out to the order of the City of Louisville City and sent to:

City of Louisville
Attn: Finance Director
749 Main Street
Louisville, CO 80027

3. City Fiber & Conduit.

(a) As additional consideration to the City for the License granted hereunder to Licensee, Licensee agrees to construct, install, and dedicate to the City for municipal purposes (the “City Project”):

(i) Approximately one (1) mile of City Fiber at the location(s) described and depicted on Exhibit B, attached hereto and incorporated herein by this reference;

(ii) Approximately four and one half (4.5) miles of Shared Fiber at the location(s) described and depicted on Exhibit B.

(iii) Approximately one (1) and three-tenths (3/10) of one mile (1.3 miles) of City Conduit, with handholes at the locations described and depicted on Exhibit B.

(b) All Fiber installed as part of the City Project must be six (6) strand, single mode, dark fiber capable of achieving ten (10) gigabits per second (Gbps) connection speeds unless a different specification and/or performance standard is approved in writing by the City Manager in advance of the subject installation.

(c) All City Fiber and Shared Fiber shall be installed within Licensee Facilities, unless otherwise stated in this Agreement, including subsection (d) below, or an exhibit hereto, and shall be operated and maintained by Licensee in accordance with Exhibit B, attached hereto and incorporated herein by this reference.

(d) The City Conduit and City Fiber installed within such City Conduit shall be dedicated to the City for the City’s exclusive use upon construction completion, by bill of sale or other written instrument acceptable to the City, and upon the City’s written acceptance of the same, the City shall own and be responsible for maintenance of such City Conduit and all City Fiber installed within such conduit.

(e) Licensee shall perform its obligations under this Section in accordance with Article VII hereof and the terms and conditions of any applicable permits. The parties shall cooperate in good faith to develop a timeline for completion of the City Project by no later than December 31, 2026, unless the City agrees in writing to extend such completion deadline.

ARTICLE V - OCCUPATION TAX & E911 SURCHARGES

1. To the extent Licensee operates as a local exchange provider, as defined by §40-15-102(18), C.R.S. and/or as an interexchange provider, as defined by §40-15-102(11), C.R.S. the

following provisions shall apply:

(a) Licensee understands and acknowledges that City had heretofore adopted a Telephone Utilities Tax as codified in Chapter 3.26 of the LMC. In its provision of local exchange services, whether directly or through resale, Licensee agrees to be bound by and comply with said Ordinance, including payment of the tax in an amount equal to \$8.00 per annum for each Account, payable monthly in twelve (12) equal installments. In providing local exchange services, Licensee hereby expressly agrees that it is and constitutes a telephone utility within the meaning of Chapter 3.26 of the LMC and Licensee irrevocably waives and relinquishes any right it has or may have to claim or assert that said LMC provisions are invalid under law or should not be applied to Licensee, including, without limitation, any claim that said provisions violates any provision of state law or the Telecommunications Act.

(b) Pursuant to Chapter 3.30 of the LMC, the City has imposed an emergency telephone charge ("E911 Charge") of \$0.75 per month per exchange access facility, wireless communications access and interconnected voice-over-internet-protocol service provided within the Jurisdiction, as authorized by §29-11-100.5, et seq., C.R.S. Licensee agrees to collect the E911 Charge from its customers and promptly remit same monthly to City as provided by §29-11-103(1), C.R.S.

ARTICLE VI - SALES AND USE TAXES

1. Licensee agrees to obtain a sales and use tax license from the City and to comply with all provisions of Chapter 3.20 of the LMC relating to sales and use taxes.

2. Licensee acknowledges and agrees that to the extent Licensee sells telecommunications services to customers within the City, including the provision of interstate telephone access service and interlata access service, such service is taxable by City pursuant to Chapter 3.20 of the LMC, and Licensee shall collect such taxes from its customers and promptly remit same to the City in accordance with Chapter 3.20 of the LMC.

ARTICLE VII - USE OF PREMISES

1. Facilities shall be located, installed and maintained so that none of the Facilities endanger the lives, health or safety of persons, or interfere with any public improvements the City or other governmental entities (including any storm water, sanitary sewer or water utilities or enterprises) have in place or may deem proper to make, nor shall the location, installation or maintenance of the Facilities hinder or obstruct the use of the streets or other public ways for their public purposes, including but not limited to vehicular and pedestrian traffic. All Facilities shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners of property which adjoins any Right of Way.

2. Prior to commencement of construction of any portion of its telecommunications system within the City (other than Leased Facilities), Licensee shall furnish to the City the general schematic plans for its Facilities, including system route maps, renderings of equipment boxes and

structures, engineering, traffic control, and landscaping plans. In addition, the Licensee shall assess and report on the impact of its proposed construction on the City environment. Such plans and reports may be reviewed by the City to ensure, (a) that all applicable laws including building and zoning codes and air and water pollution regulations are complied with, (b) that aesthetic and good planning principles have been given due consideration, and (c) that adverse impact on the environment has been minimized. The Licensee shall comply with all regulatory requirements of the City lawfully binding on the Licensee and shall incorporate all other reasonable changes to its plans requested by the City, consistent with the provisions of Chapter 12.12 of the LMC.

3. Not less than thirty (30) days prior to construction of any Facilities within the Premises at any specific location, Licensee shall furnish the City's Director of Public Works with detailed plans for such Facilities including detailed location drawings and final architectural, engineering, traffic control and landscaping plans. Prior to commencing construction, Licensee shall: (a) obtain written approval of the City's Director of Public Works of the construction plans, (b) procure appropriate excavation permits pursuant to Chapter 12.12 of the LMC, or permits required pursuant to any similar ordinance adopted by City in the future, (c) pay all review fees associated with such permits in addition to the fees set forth in Article IV of this Agreement, and (d) comply with all requirements of said Chapter 12.12 of the LMC, including the terms of said permits.

4. All construction, excavation, maintenance and repair work done by Licensee shall be done in a workmanlike and expeditious manner which minimizes the inconvenience to the City, the general public and individuals. Licensee shall be liable for any damage to the City or City owned property caused by Licensee's failure to act in a timely manner. All such construction, excavation, maintenance and repair work done by Licensee shall comply with all applicable codes of the City and the State of Colorado, and Licensee shall be responsible for obtaining all applicable permits and licenses. The City shall have the right to inspect all construction or excavation work to ensure compliance with applicable codes and permits, and may order Licensee to perform corrective work. All public and private property disturbed by Licensee's activities shall be promptly restored by Licensee at its expense to substantially its former condition, subject to inspection by the City's Director of Public Works or their designee and compliance by Licensee with reasonable remedial action required by said official pursuant to the inspection. Licensee shall be liable to City for the full cost of restoring any public property not promptly remedied by Licensee as required by said official. Licensee shall be liable for any damage to public or private property caused by construction, excavation, maintenance and repair work done by Licensee.

5. The installation, maintenance, renovation, repair, replacement and removal of Facilities by Licensee shall be subject to regulation by City including as to (a) the location of Facilities in or upon the streets, alleys and dedicated easements, (b) the disturbance and reconstruction of pavement, sidewalks, and surface of streets, alleys, dedicated easements and driveways, (c) the timing and scheduling of work, and (d) the temporary closure of portions of streets and alleys. All Facilities shall be designed and installed so as to cause a minimal amount of interference with public property, water mains, sewer mains, electric and natural gas facilities, streetlights, traffic signals, and all other municipal or authorized public use of the Rights of Way. The Director of Public Works, or designee, may direct and require Licensee to locate its Facilities within a defined telecommunications corridor within any street or other Right of Way or otherwise

at a specific location to minimize interference with other facilities or utilities. Licensee shall install and maintain its Facilities in such manner as to minimize interference with trees, natural features and vegetation. Whenever feasible, as determined in the reasonable discretion of the Director of Public Works, Licensee shall enter into pole-sharing and conduit-sharing agreements with third parties in order to co-locate its wires and cables upon poles or within conduit of other Telecommunications Providers or utilities in accordance with applicable City ordinances and requirements.

6. Licensee shall, upon reasonable notice and at its sole cost and expense, remove, locate and relocate its Facilities in, on, over or under any Rights of Way in such manner as City may at any time require for the purpose of facilitating the construction, reconstruction, maintenance, repair, or change in grade of any street, sidewalk, public improvement or City project, or for the purpose of promoting the efficient operation of any such public improvement or project, or for the purpose of facilitating the vacation and/or redevelopment of Right of Way by the City. In the event Licensee fails to act within a reasonably allocated time, the City may cause Licensee's Facilities to be relocated, and Licensee shall be liable to City for the costs thereof. In the event City causes Licensee's Facilities to be relocated, City shall be held harmless for any damages incurred to Licensee's Facilities during such relocation.

7. Except where specifically authorized by the Director of Public Works, all of Licensee's Facilities located within Rights of Way shall be located underground. In locations where wires or cables of franchisees of City or of authorized local exchange carriers are presently located above-ground, the City Engineer will allow Licensee's Facilities to also be located above-ground. At the City Engineer's discretion, underground installation may be required in certain areas where above-ground facilities currently exist. Thereafter, and notwithstanding that any such authorization had been given, should the City subsequently determine for any area of the City that telephone or telecommunications wires, cable television cables or electric utility wires located above ground shall be relocated underground, Licensee shall, upon reasonable notice, at its sole cost and expense, relocate its Facilities below ground in cooperation with other affected interests. In the event Licensee fails to act within a reasonable allocated time the City may cause Licensee's Facilities to be relocated, and Licensee shall be liable to City for the costs thereof. In the event City causes Licensee's Facilities to be relocated, City shall be held harmless for any damages incurred to Licensee's Facilities during such relocation.

8. Licensee agrees to take such actions as necessary to maintain the communication conduit and/or fiber optic cable in good and safe condition at all times. Licensee further agrees to comply at all times with the ordinances, resolutions, rules, and regulations of the City in Licensee's use and occupancy of the Premises. If Licensee fails to comply with its obligations under this Agreement, the City may take such measures as it determines necessary to bring the Premises into compliance, and the cost of any such measures shall be paid by the Licensee. The City shall have no responsibility, liability, or obligation with respect to the safety or security of any person on account of Licensee's use of the premises or any personal property placed or located on, at, or in the Premises by Licensee, it being acknowledged and understood by Licensee as between Licensee and the City that the safety and security of any such persons and property is the sole responsibility and risk of Licensee.

9. Any and all activities of Licensee as authorized hereunder shall be performed in accordance with all applicable City of Louisville laws, ordinances, rules, regulations, required permits, and design and construction standards. Licensee agrees it shall not, in the exercise of its rights hereunder, introduce into or store, generate or dispose any hazardous substance (as defined under any state or federal law) on or within the Premises, any City Conduit, or Rights of Way.

10. Within thirty (30) days following the installation or relocation of any Facilities within the Premises, Licensee shall provide the City with detailed drawings showing the as-built location of such Facilities. As-built drawings may be provided electronically.

11. Licensee shall provide the City on an annual basis by November 30 of each calendar year a report providing the City with the location of all of Licensee's Facilities installed pursuant to this Agreement as of the date of such annual report. Upon completion of the installation of Licensee's Facilities as set forth herein, Licensee shall provide the City with a map identifying the locations of all of Licensee's Facilities and Licensee's completed system within the City, which map shall be accompanied with as-built drawings.

12. After execution of this Agreement, Licensee shall join and associate with the notification association of owners and operators of underground facilities in accordance with the requirements of Article 1.5 of Title 9, Colorado Revised Statutes. Prior to undertaking any excavation within the Rights of Way, Licensee shall comply with the notice requirements of said Article.

ARTICLE VIII - ADDITIONAL CITY REGULATION

1. The City expressly reserves its right and duty to adopt, from time to time, in addition to the provisions herein contained, such Charter provisions, ordinances and rules and regulations as may be deemed necessary by the City to promote the health, safety and welfare of its inhabitants and their property.

2. If, during the term of this License Agreement, the City is authorized pursuant to Colorado Law to collect compensation for use of the Rights of Way by Telecommunications Providers and the City enacts an ordinance concerning the use of Rights of Way which requires compensation for the use of the Rights of Way from any class of Telecommunications Providers on a competitively neutral and nondiscriminatory basis within such class, then Licensee shall, in accordance with the terms of such ordinance, pay such compensation.

ARTICLE IX - COORDINATION AND CONDUIT/POLE SHARING

1. In order to minimize disruption to vehicular traffic and inconvenience to the public, and to enable the limited width of Rights of Way to be apportioned among all utilities, Telecommunications Providers and other interests needing to locate or maintain facilities in the Rights of Way for the benefit of the public, it is imperative that pole sharing and conduit sharing be encouraged to the greatest extent possible. In furtherance of such purposes, Licensee agrees that it shall reasonably cooperate with City, authorized utilities and other local exchange carriers in placing conduit within the Rights of Way and in sharing unused space within underground conduits

owned by Licensee, and upon poles or other above ground facilities owned by Licensee.

2. Whenever the Licensee intends to install new underground conduit or replace existing underground conduit, Licensee shall provide City and all utilities, cable television franchisees, authorized Telecommunications Providers, and local exchange carriers authorized to use the Rights of Way, with sixty (60) days advance written notice in order to permit the additional contemporaneous installation of conduit by City, and such utilities, cable television franchisees, authorized Telecommunications Providers, and local exchange carriers. If City desires additional conduit installed, it will so notify the Licensee and the City shall be responsible for the additional incremental expense for installing such additional conduit. If a utility, cable television franchisee, authorized Telecommunications Provider, or local exchange carrier desires additional conduit installed, it will so notify the Licensee in writing at least ten (10) days prior to the proposed construction date, and such party requesting the additional conduit shall be responsible for a pro-rata expense for installing such additional conduit. This section is intended to maximize the coordination of facilities located within rights of way, and is not intended to govern routine connections of customers to installed network not involving significant line extension nor other excavations of limited scope.

3. Notwithstanding anything to the contrary in paragraph 2 of this Article, in order to minimize disruption to the public and enable use of the public rights of way for public purposes, in connection with any installation of underground conduit by Licensee, City may request Licensee to install one additional conduit for exclusive use by City for public and municipal purposes. In any such case, Licensee shall install the conduit as requested and the City shall reimburse Licensee only for the cost of the conduit and associated handholes and pull boxes for the conduit, and for the additional incremental expense for installing such additional conduit, handholes and pullboxes.

ARTICLE X - INDEMNIFICATION

1. Licensee shall install, construct, maintain and operate its telecommunications system in a safe manner providing reasonable protection against injury or damage to any and all persons or property. Licensee specifically agrees to indemnify, defend and hold City harmless from all claims, costs, demands, suits, reasonable expert witness and attorneys' fees, court costs, and other reasonable costs of defense and judgments to the extent the same arise from, in whole or in part, Licensee's negligent acts or omissions of failure to comply with the provisions of this License Agreement, and from all damages or penalties to the extent arising out of the installation, construction, operation, or maintenance of Licensee's telecommunications system, whether or not any act or omission complained of is authorized, allowed, or prohibited by this License Agreement, except to the extent such damages or penalties result from the intentional or willful and wanton misconduct of the City. City shall not be liable for, and Licensee shall indemnify, defend and hold the City harmless from all costs, damages and claims to the extent arising from or relating to delay by Licensee in performing its obligations hereunder, for any cause whatsoever, except for the intentional or willful and wanton misconduct of the City, other users of the Rights of Way, or a force majeure event. Licensee shall have sole control over the defense, investigation and settlement of any such claims, however, Licensee shall not enter into any compromise or settlement which imposes any obligation or liability on the City without the prior written consent of the City. In the event Licensee fails to timely assume the defense of any such claim which has

been properly and promptly tendered to Licensee, Licensee also hereby agrees to pay all reasonable expenses of the City incurred by the City in defending itself with regard to any such damages, claims or penalties, including all out-of-pocket expenses, attorney' fees, and the reasonable value of any services rendered by any employees of the City.

2. The City will provide notice to the Licensee of the pendency of any claim or action against the City arising out of the operations of the Licensee, the exercise by the Licensee of its rights under this License Agreement or the performance thereof by the Licensee. The Licensee shall thereafter be required to appear and defend any such claim or action. Nothing herein stated shall limit the Licensee's obligation of full indemnification of the City hereunder.

ARTICLE XI - INSURANCE

Prior to commencement of any installation of Facilities under this License Agreement, Licensee shall procure and thereafter continuously maintain, for as long as this License Agreement remains in effect, at Licensee's expense, Commercial General Liability ("CGL") insurance written on ISO form CG 00 01 01 96, or a substitute form providing equivalent coverage, with a limit of not less than \$2 Million per occurrence, covering liability arising from premises, operations, independent contractors, personal injury, products completed operations, and liability assumed under an insured contract, on an occurrence basis. Under the terms of the required CGL policy, this License Agreement shall be defined as an insured contract. The policy shall identify the City as an additional insured, shall contain a waiver of right of subrogation against City and a severability of interests provisions, and shall have all necessary endorsements to provide coverage without exclusion for explosion, collapse and underground property damage hazards. A certificate of insurance shall be filed with the City's Director of Public Works prior to commencement of installation of Facilities, which evidences compliance with the policy requirements stated above and provides for thirty (30) days prior written notice to City prior to cancellation or material change of any insurance referred to therein. In the event the certificate states that it confers no rights upon the certificate holder, the City may require Licensee to furnish a complete copy of the policy including all declarations and endorsements. Failure on the part of Licensee to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate this License Agreement and the License granted herein, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Licensee to the City upon demand. The parties understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to the City, its officers, or its employees.

ARTICLE XII - TERM

Unless sooner terminated as provided herein, the term of this License Agreement shall be for a period of five (5) years from and after the date of the Agreement. The Parties may mutually agree in writing to renew this Agreement at expiration of the initial term.

ARTICLE XIII - REMEDIES, TERMINATION, REMOVAL

1. In the event of any breach of the terms of this License Agreement by Licensee, each of which terms are deemed material, City shall have the right to obtain one or more of the following remedies, which are expressly agreed to be cumulative, and the exercise of any one (1) or more of them shall not be dependent upon the exercise of any other remedy, nor does the exercise of any one or more of them constitute any bar or limitation to the exercise of any other: (a) specific performance or injunctive relief, (b) monetary damages, and (c) termination. In the event City is required to commence an action to enforce its rights under this License Agreement or to obtain remedies provided above and the party which substantially prevails therein, shall be entitled to recover its costs, including reasonable attorneys' fees and expert witness fees.

2. Before terminating the License Agreement for cause on account of any default by Licensee, City shall provide Licensee with written notice of the default and afford Licensee a reasonable period in which to cure the default.

3. In the event Licensee abandons the telecommunications system installed under the terms of this License Agreement or a certain part thereof or fails to use it for a period of one (1) year, or in the event the term of this License Agreement expires, or the Agreement is terminated or is canceled for any reason, then Licensee shall remove its telecommunications system, or the abandoned portions thereof in the case of a partial abandonment, at its expense. As an alternative to removal, if mutually agreed to by Licensee and the City, the ownership of the telecommunications system (or abandoned portions) may be transferred to the City, in which event, all obligations and liabilities of Licensee under this Agreement in connection with the portion of the telecommunications system so transferred to the City shall terminate.

4. City or Licensee may cancel this Agreement at any time upon ninety (90) days' written notice to the other party, subject to the indemnification requirements of this Agreement, the removal provisions set forth in Section 3 above, and any other provisions that survive the termination of this Agreement.

ARTICLE XIV - NOTICES

Except as otherwise provided herein, notice under this License Agreement shall be deemed sufficient if provided in writing and mailed by US certified mail, return receipt requested or delivered by a nationally recognized courier, and shall be deemed effective upon actual receipt or refusal of delivery, and shall be addressed to the respective party as follows:

If to the City: Office of the City Manager
 Attn: City Manager
 749 Main Street
 Louisville, CO 80027

with a copy to: Public Works
 Attn: City Engineer

749 Main Street
Louisville, CO 80027

If to Licensee: BIF IV Intrepid OpCo LLC
11001 W. 120th Ave, Suite 305
Broomfield, CO 80021
Attention: Chief Construction Officer

with a copy to: BIF IV Intrepid OpCo LLC
11001 W. 120th Ave, Suite 305
Broomfield, CO 80021
Attention: Regulatory

ARTICLE XV - EFFECT OF MORE FAVORABLE LICENSE AGREEMENTS

In the event that any wireline Telecommunications Provider offering Telecommunications Services, other than cable services, for a fee to the public, or to such classes of users as to be effectively available to the public is, following the execution of this License Agreement, granted consent to use the City's Rights of Way pursuant to terms and conditions which, if applied to Licensee, would be more favorable than those included herein, Licensee shall notify City of such terms and conditions and Licensee shall have the option to renegotiate with City with respect to such terms and conditions.

ARTICLE XVI - MISCELLANEOUS

1. This License Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. No provision of this License Agreement shall confer rights or benefits upon any person not a party hereto.

2. In the event that any term or provision of this License Agreement is declared to be illegal, invalid, or unconstitutional, then that provision shall be deemed to be deleted from this Agreement and have no force or effect and this Agreement shall thereafter continue in full force and effect, as modified.

3. This License Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado, without reference to its conflicts of law principles. Venue for any legal action brought hereunder shall be in the federal or state courts for Boulder County, Colorado, and in no other court, for purposes of any litigation related to the License Agreement and irrevocably waives any defense of an inconvenient forum to the maintenance of any action or proceeding in any such court, any objection to venue with respect to any such action or proceeding and any right of jurisdiction on account of the place of residence or domicile.

4. Any and all provisions of this License Agreement which, by their nature, would reasonably be expected to be complied with or performed after the expiration or termination of this License Agreement, including without limitation the removal of Licensee Facilities and Licensee's indemnification obligations, shall survive and be enforceable after the expiration or

termination of this License Agreement.

5. The covenants and agreements contained in this Agreement are for the benefit of the City and Licensee only, and do not create any obligations or duties to persons not parties hereto.

6. No amendments, changes or modifications to this Agreement shall be valid except if the same are in writing and signed by a duly authorized representative of each of the parties. Neither party shall assign any of its rights hereunder without the prior written consent of the other party.

7. This License Agreement, including any Exhibits, contains the entire agreement between the parties and supersedes all prior and contemporaneous communications, understandings, and agreements with respect to the subject matter hereof, whether written or oral, expressed or implied. No other agreement, statement, promise, or practice between the parties relating to the License Agreement shall be binding upon the parties.

ARTICLE XVII - SIGNATURES

The persons signing this License Agreement on behalf of Licensee represent and warrant that such persons and Licensee have the requisite power and authority to enter into, execute and deliver this License Agreement and that this License Agreement is a valid and legally binding obligation of Licensee enforceable against Licensee in accordance with its terms. This License Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of such components together shall constitute one and the same instrument.

ARTICLE XVIII - FORCE MAJEURE

Neither party shall be liable for its failure to perform any of its obligations hereunder if such failure is caused by an Act of God, labor strike, fire, earthquake, power blackouts, pandemics, epidemics, or any other cause beyond its reasonable control and without its fault or negligence.

ARTICLE XIX- LAWS GOVERNING/VENUE

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, and applicable federal law. Venue for any proceeding brought pursuant to this Agreement shall be in the District Court located in Adams County, Colorado.

ARTICLE XX - COUNTERPARTS; ELECTRONIC DISPOSITION

This Agreement may be executed in multiple counterparts, each of which constitutes an original hereof. Regardless of the number of counterparts, all shall constitute only one agreement. In making proof of this Agreement, it is not necessary to produce or account for more counterparts than are necessary to show execution by or on behalf of all parties. Furthermore, the original of this Agreement, including the signature page, may be scanned and stored in a computer database or similar device, and any printout or other output readable by sight, the reproduction of which is

shown to accurately reproduce the original of this Agreement, may be used for any purpose as if it were the original, including proof of the content of the original writing.

ARTICLE XXI - PUBLIC DISCLOSURE

The Licensee acknowledges that this Agreement is public record within the meaning of the Colorado Open Records Act, C.R.S. § 24-72-200.1 *et seq.* as same may be amended, and accordingly may be disclosed to the public.

ARTICLE XXII - AMENDMENT

This Agreement may not be amended except pursuant to a written instrument signed by both parties.

ARTICLE XXIII - ENTIRE AGREEMENT

This Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersedes all prior oral negotiations between the parties, and can be amended, supplemented, modified or changed only by an agreement in writing which makes specific reference to this Agreement and which is signed by the party against whom enforcement of any such amendment, supplement, modification or change is sought.

IN WITNESS WHEREOF, Licensee and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:


Meredyth Muth, City Clerk

CITY OF LOUISVILLE,
a municipal corporation

By: 
Christopher M. Leh, Mayor

ATTEST:

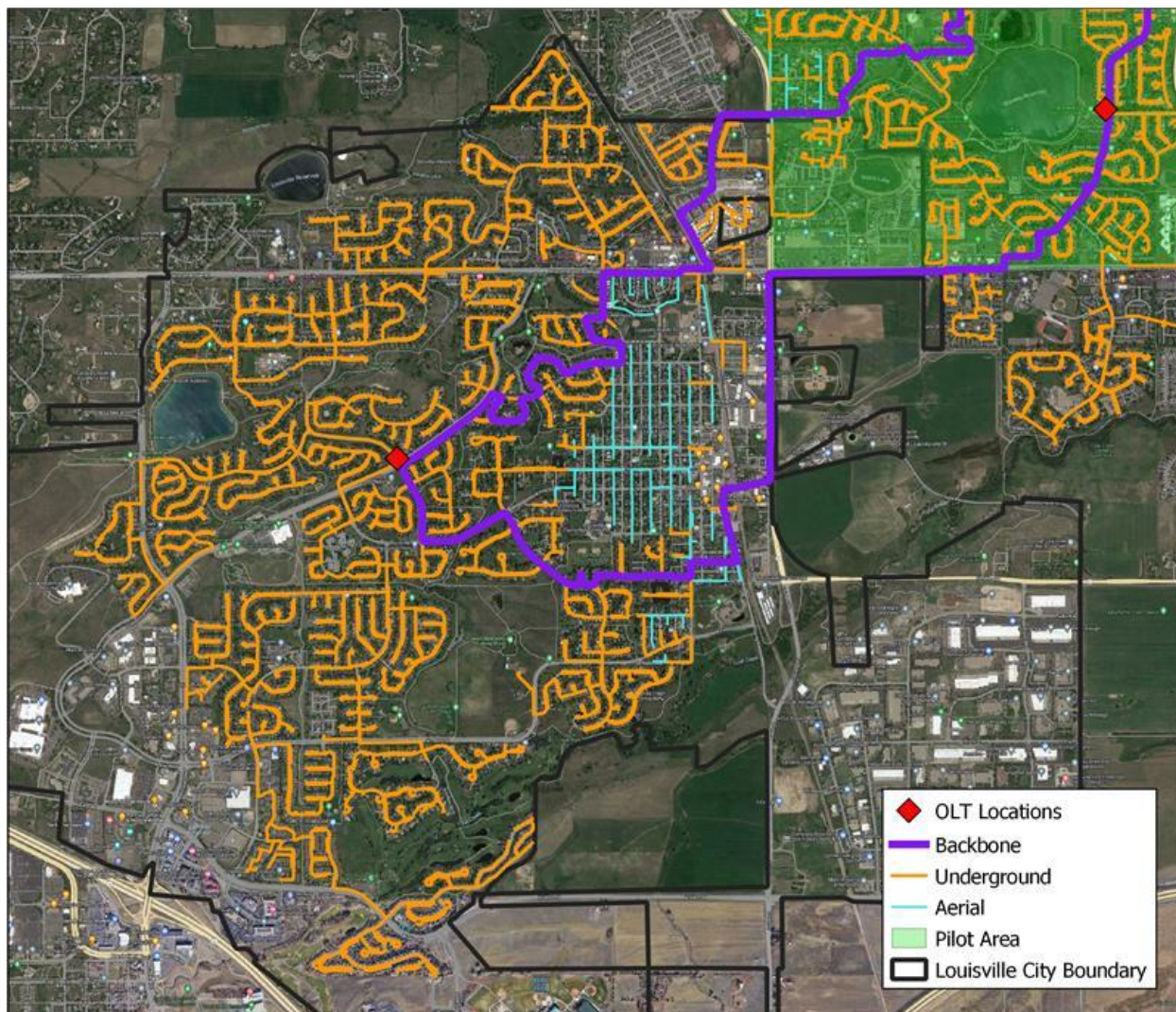
Title: _____

LICENSEE: 

By: Jeffrey Polachek
Title: Chief Construction Officer

EXHIBIT A

Description: This Exhibit A shall cover the proposed Licensee network within the City boundaries as depicted on the following map:



Licensee shall construct a fiber network consisting of the following:

- Underground Installation: Two (2) through (4) 0.75" HDPE SDR 11 conduits, including fiber optic cables of various sizes and access vaults as required
- Aerial Installation: One (1) 1/4" strand, attached with hardware as approved by the pole owner, with fiber optic cables of various sizes dual-lashed to the messenger

Details of the underground installations will be requested to the City via the permitting process. Licensee shall also have the ability to expand the scope of the network into new developed areas within the City with review and approval by the City.

This license shall include approximately 75 miles of underground construction and 7 miles of aerial installation. The underground construction shall be completed by horizontal directional drilling. The aerial installation shall be completed via application, approval, and attachment via Xcel Energy and Lumen and comply with all stated requirements. No incremental new poles will be added as part of this process.

Location of the Optical Line Terminal Cabinet:

For the purposes of aggregating traffic within the City, licensee shall install one (1) optical line terminal (OLT) cabinet. The OLT shall be located at the northeast corner of the intersection of Via Appia Way and Tyler Avenue. The final location shall be subject to review by the City and Xcel Energy power availability. The cabinet to be installed shall be as follows:

- Commscope CMC-21 Optical Line Terminal Cabinet, including a Nokia 7360 FX-8 and other associated Optical Equipment

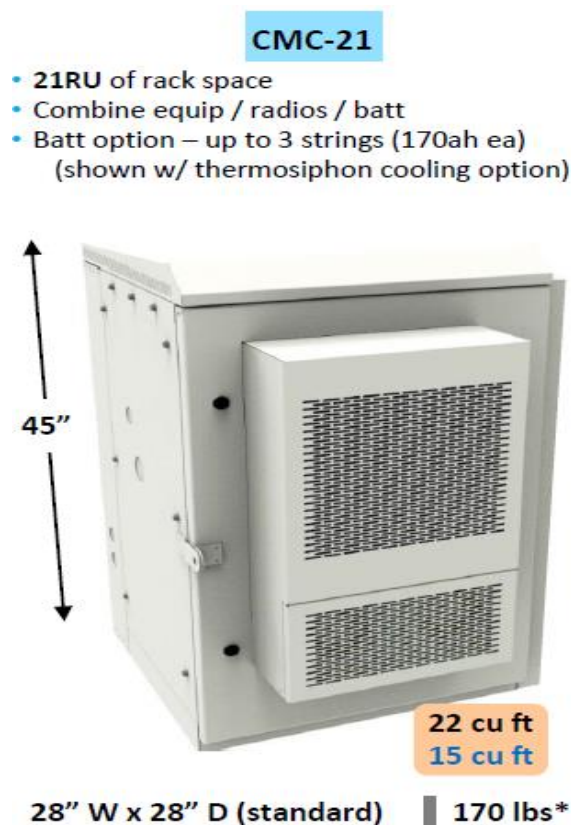


EXHIBIT B

This Exhibit to the License Agreement between the City of Louisville, a Colorado Municipal Corporation (the "City") and BIF IV Intrepid OpCo LLC (the "Licensee") is intended to define the construction, configuration, and operation of a dark fiber network (the "Network") connecting multiple locations within the City. All provisions of the Agreement shall apply to and survive this Exhibit unless otherwise specifically identified.

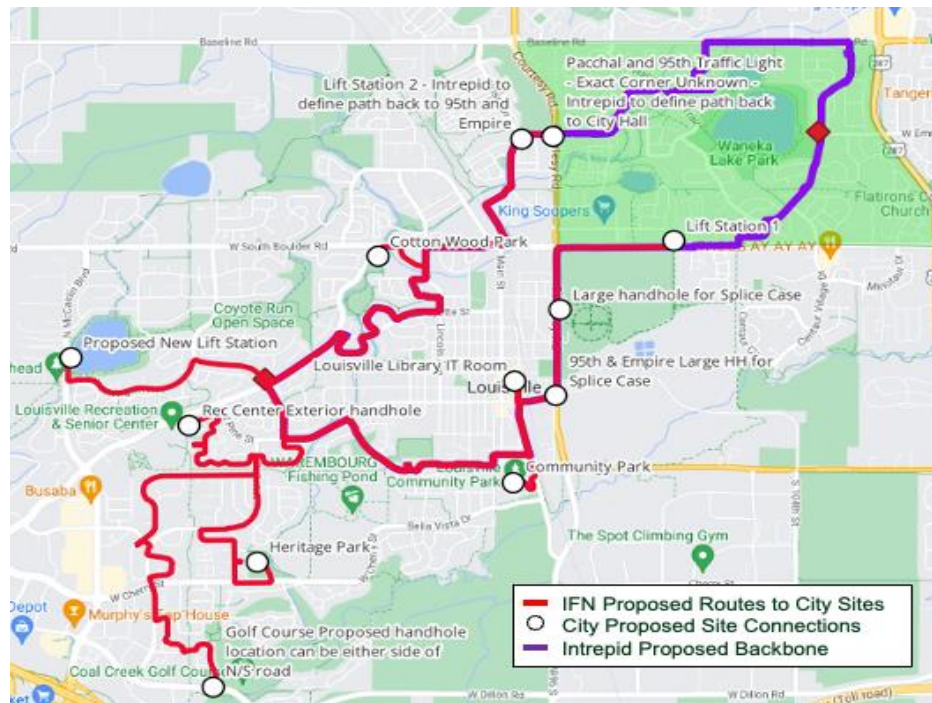
ARTICLE I – SCOPE OF SERVICES

The City's dark fiber network shall include connection to the following locations:

From	To	Description
Louisville Library	Lift Station 1	2" conduit
Golf Course Proposed HH	Rec Center Exterior HH	6 fibers
Louisville Library	Paschal & 95th	6 fibers
Louisville Library	Lift Station 2	6 fibers
Louisville Library	Cottonwood Park	6 fibers
Louisville Library	Heritage Park	6 fibers
Louisville Library	Proposed New Lift Station	6 fibers
Louisville Library	Community Park	6 fibers

All demarcation points of services shall be further defined in the Service Order and/or as-built drawings.

Network Map:



ARTICLE II – NETWORK MAINTENANCE

Licensee shall provide Routine Maintenance and Non-Routine Maintenance defined as follows:

- Routine Maintenance: Licensee agrees to take such actions as necessary to maintain the communication conduit and/or fiber optic cable in good and safe condition at all times, including subscription to the Colorado 811 system, locating of network facilities, and repair of damages to the network.
- Non-Routine Maintenance: Licensee shall perform troubleshooting and restoral of the network, including, but not limited to, repairs required due to cable cuts, fires, remodeling work or other acts of third parties or Force Majeure events. City shall use commercially reasonable efforts to determine that any disruption in the functionality of the Dark Fiber Service is not on the City's side of the Demarcation Point. After verifying that the problem is not on City's side of the Demarcation Point, Customer may call Licensee toll-free on (844) 380-8090 or email info@intrepidfiber.com to open a Support Ticket.
- Fiber Restoration: Following receipt of City notification of support request, Licensee shall use its best efforts to respond on-site (if necessary) to the affected location(s) within two (2) hours of acknowledging a Support Ticket, provided Licensee has all necessary access to the City location(s). In the event of a cable failure, Licensee shall use its best efforts to begin service restoration following identification of such failure as quickly as possible. Further, Licensee shall use commercially reasonable efforts to restore the functionality of the services as quickly as possible. During any outage, Licensee shall contact City on a regular basis, to update the status of restoration.
- Relocation: City acknowledges and agrees that, after the Activation Date, Licensee may be required (i) by any governmental authority under the power of eminent domain or otherwise, (ii) by the grantor or provider of any underlying right, (iii) by any other person having the authority to so require, or (iv) by the occurrence of any Force Majeure Event, to relocate the Segment(s) of the Licensee network. City shall work in good faith to minimize the impacts of relocations to the Licensee's network when such requests are originated by City.
- As-Built: Within thirty (30) days following the installation or relocation of any Facilities within the Premises, Licensee shall provide the City with detailed drawings showing the as-built location of such Facilities.

ARTICLE III – NETWORK MONITORING

Licensee shall provide Network Monitoring via Licensee's Network Operations Center ("NOC"). This NOC shall monitor its network and perform cable and conduit maintenance and repair, on a twenty-four (24) hour per day, seven (7) days per week basis (24x7). As Licensee is not actively monitoring the dark fiber network, City shall provide notice to the Licensee of any potential outages or service impairments for review and attention by Licensee. City shall contact NOC Services at 877-252-2249 or mnoc-nar@list.nokia.com. Any changes to emergency contacts shall be provided by Licensee to City as they occur.

ARTICLE IV – COST OF SERVICES

Licensee agrees to Construct and Provision the Network at No Cost as Described in Article I, including:

- **Scope of Services:** Licensee agrees to provide the Network as Described in Article I to City at no cost.
- **No Charge:** Licensee acknowledges and agrees that there shall be no charge, fee, or cost associated with the construction and provisioning of these Services to City.
- **No Hidden Costs:** Licensee shall not impose any hidden fees, incidental charges, or additional costs on City in connection with the provision of the Services.