DRAFT: 11/10/2020

Contract No._____

IT EQUIPMENT LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made and entered into this ____ day of _____, 2020, by and between THE ROARING FORK TRANSPORTATION AUTHORITY, 2307 Wulfsohn Road, Glenwood Springs, CO 81601 (hereinafter "RFTA") and _____**School District** (hereinafter called the "Licensee").

WITNESSETH, that RFTA, for and in consideration of the covenants and agreements of the Licensee contained herein and upon the terms and conditions stated, hereby licenses and permits the construction, maintenance and use of IT Equipment and the antenna attached to the RFTA Carbondale Maintenance Facility (CMF) (hereinafter called "IT Equipment") at 0766 Industry Way, Carbondale, Colorado 81623. The approximate location of this IT Equipment is depicted on Exhibit "A."

The term "IT Equipment" shall include without limitation conduit, fiber line, the antenna attached to the CMF facility, communications switches and other ancillary equipment necessary to support the district's board band communications service and connection to RFTA's IT equipment.

1. Maintenance and Repair. Licensee shall, at the sole cost and expense of the Licensee, relocate the IT Equipment and all its appurtenances whenever necessary and when required to do so by RFTA, in accordance with plans prepared by Licensee and in a manner satisfactory to RFTA. RFTA, however, shall also have the right, if it so elects, at any time, though it shall be under no obligation whatever to do so, to construct, maintain, repair, reconstruct, relocate or remove the IT Equipment and all or any of its appurtenances, notwithstanding the obligation of the Licensee to construct, maintain, repair, reconstruct, or relocate the IT Equipment . The optional right of RFTA to maintain or relocate the IT Equipment shall in no manner or degree relieve the Licensee's responsibility to RFTA or to other persons or corporations for the failure of the Licensee to properly maintain, repair, reconstruct, relocate or remove the IT Equipment, or any other structure which RFTA agrees to maintain, repair, reconstruct, relocate or remove.

2. Limitations on Rights Granted. This License is without covenant of title or quiet enjoyment and is subject and subordinate to a reservation of the prior and continuing right of RFTA to all other uses of the CMF, including the right to construct, use, maintain, repair, relocate and renew in RFTA's sole discretion any and all improvements, including without limitation the IT Equipment, overhead lines, utilities, and other facilities upon, along, over, under

or across any or all parts of the CMF, all of which may be done at any time by RFTA without prior notice and without liability to Licensee or to any other party for compensation or damages. This License is subject and subordinate to all existing leases, licenses, easements, permits, claims of title or other interests and as may in the future be modified, renewed or extended by RFTA, including, but not limited to, any underground wiring.

3. License Fee. The one-time fee for the IT Equipment shall be Ten ($10.00) Dollars payable to RFTA upon execution of this License.

4. Licensee's Duty to Install Safety Improvements. If at any time after the installation of the IT Equipment, any local, state or federal law or regulation, or any local, state or federal officer or regulatory board or commission having jurisdiction shall require any alterations, changes or improvements of the IT Equipment, as herein defined, or any additional safeguards, protection, signals or warnings, the same shall be constructed, maintained and operated at the sole expense of the Licensee. Licensee shall be wholly responsible for the repair and maintenance of the antenna, its foundation and guide wires that support the antenna that is attached to the CMF. Licensee shall inspect and maintain the antenna to insure it is safe, secure and structurally able to support any equipment the school district attaches to it. Licensee shall also ensure that any person working on the antenna is trained to do so and that the work is conducted in such a way as to ensure the safety of the persons working on the antenna.

5. Any Future Work to Require Permit. Licensee shall not enter upon the CMF property for the purpose of constructing, repairing, reconstructing, relocating or removing the IT Equipment without prior written permission from RFTA, except in cases of an emergency when work is necessary to avert injury to persons or loss or damage to property. All work of construction, maintenance, repair, relocation or removal shall be done by the Licensee in such manner as to cause no interference with the constant, continuous and uninterrupted use of the CMF property buildings or other improvements of RFTA now in place or as may be installed in the future by RFTA at RFTA's discretion.

6. RFTA's Right to Alter, Relocate, or Remove. This License shall not be deemed to give Licensee exclusive possession of any part of the premises described, but RFTA shall have the unimpaired right to construct, maintain, repair, relocate buildings or appurtenant structures or other improvements deemed appropriate in RFTA's discretion and nothing shall be done or suffered to be done by Licensee at any time that shall in any manner impair the usefulness or safety of any property of RFTA building or appurtenant structure or other improvement to be hereafter constructed. RFTA shall have the right at any and all times hereafter to construct, maintain buildings, appurtenant structures or other improvements where the IT Equipment is located, as RFTA may from time to time elect. If the IT equipment is not removed when the license is terminated, RFTA may remove or cause the same to be done at the cost of Licensee.

7. Liens. Licensee shall pay in full all persons who perform labor on the IT Equipment

for Licensee and will not allow any mechanics' or materialmen's liens to be enforced against RFTA's property or the IT Equipment for work done or materials furnished at Licensee's instance or request. If any such liens are filed thereon, Licensee agrees to remove the same at Licensee's own cost and expense and to pay any judgment which may be entered thereon or thereunder or to provide a bond in the amount of the lien pursuant to law. Should Licensee fail, neglect or refuse to do so, RFTA may pay any amount required to release any such lien or liens, or to defend any action brought thereon, and to pay any judgment entered therein, and Licensee shall be liable to RFTA for the payment of any such liens or judgment and any and all costs, expenses, damages, attorneys' and consultants' fees and expenses, and any other amounts expended in defending any such proceedings.

8. Licensee's Assumption of Liability. Licensee assumes all liability for damage to or destruction of property, injury to or the death of persons resulting from the use or condition of the IT Equipment, or resulting from the failure on the part of the Licensee to keep the IT Equipment and all of its appurtenances in safe condition.

9. ~~Indemnification. Licensee shall at all times protect, indemnify, defend and save RFTA harmless from any and all claims, demands, judgments, costs, expenses, and all damage of every kind and nature made, rendered or incurred by or on behalf of any person or corporation proven in a court of law, and against Licensee, or any damage to property of any person or persons whomsoever, including the parties hereto and their officers, families, servants and employees, in any manner arising from or growing out of the negligent construction, maintenance, operation, repair, extension, renewal, existence, use or removal of the IT Equipment, and from all costs and expenses, including attorneys' and consultants' fees and expenses incurred by RFTA in curing any breach of this License Agreement or the defense of any third party claim; provided, however, the Licensee is found liable in a court of law.~~ Neither the right of supervision by RFTA of the location, installation, operation and the maintenance of the IT Equipment, nor the exercise or failure to exercise the right, nor the approval or failure to disapprove, by RFTA of the location, installation, operation and maintenance of the IT Equipment, nor the election of RFTA to repair, construct, reconstruct or remove the whole or any part of the IT Equipment, shall be deemed a waiver of the obligations of the Licensee contained in this License Agreement, expressed or implied. ~~Notwithstanding the foregoing statement, Licensee does not undertake any indemnification of RFTA based upon RFTA's own negligence or gross negligence during relocation of the Utility for RFTA's sole benefit.~~

10. RFTA's Right to Terminate License. If Licensee shall fail to construct, operate, use, repair, extend, renew, relocate or remove the IT Equipment in accordance with the terms of this License Agreement, or shall fail to pay to RFTA any License Fee or any other sum of money for the construction, repair, extension, renewal, relocation or removal of the IT Equipment, or shall fail to adjust the IT Equipment to any changes made by RFTA, or shall in any respect fail to keep and perform any of the conditions, stipulations, covenants and provisions of this License Agreement to be kept and performed by the Licensee, this License Agreement shall, at the option of RFTA, be void and of no effect; and the License granted herein shall immediately cease and terminate and RFTA shall have the right to remove the IT Equipment and restore property and premises of RFTA at any time thereafter at the sole expense of Licensee. Any termination hereunder shall be effective upon Licensee receiving written notice from RFTA of its default and

Licensee's failure to cure such default within sixty (60) days. Licensee may request an extension of a reasonable period of time to cure any default or to demonstrate to RFTA why it is not in default of this License Agreement. Any notice herein provided for shall be deemed given and delivered if mailed in an envelope properly stamped and addressed to Licensee. RFTA may terminate this license as part of any redevelopment or renovations of the CMF.

11. Licensee's Duty to Remove IT Equipment upon Termination. Within one hundred eighty (180) days after the abandonment of the IT Equipment or the termination of this License Agreement and the License granted herein, Licensee, at Licensee's sole expense, shall, if RFTA so desires Licensee to do so, remove the IT Equipment and all its appurtenances and restore or construct the premises of RFTA, including all right-of-way fences and drains, to a condition that existed prior to the removal and if Licensee fails to do so, RFTA may do such work of removal, restoration and construction at the expense of Licensee. In the event of the removal of the IT Equipment as in this section provided, RFTA shall not be liable to Licensee for any damage sustained by Licensee for or on account of such removal, and such removal shall not prejudice or impair any right of action for damages or otherwise which RFTA may have against Licensee.

12. License Non-Assignable. This License Agreement and the License granted herein shall not be assigned without the written consent of RFTA first had and obtained. The covenants, stipulations and conditions of this License Agreement shall extend to and be binding upon RFTA and, if assigned, its successors and assigns, and shall extend to and be binding upon Licensee and the successors and assigns of Licensee.

13. Notices.

(1) All official notices and communications under this License Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of delivery if delivered personally to the party to whom notice is given, or (ii) at the date of actual receipt if mailed by U.S. Postal Service, postage prepaid, return receipt requested.

(2) Notices and other communications shall be directed to the parties at the addresses listed below:

Notice to Licensee:

_____

_____

_____

Notice to RFTA:

Roaring Fork Transportation Authority
2307 Wulfsohn Road

Glenwood Springs, CO 81601
ATTN: Chief Operating Officer; and
ATTN: Director of Facilities

14. Headings. The section headings contained in this License Agreement are inserted for convenience only and are not intended to in any way affect the meaning or interpretation of any such section or provision of this License Agreement.

15. Governing Law. This License Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

16. Amendments and Waivers. No amendment of any provision of this License Agreement shall be valid unless the same shall be in writing and signed by RFTA. No waiver by RFTA of any default or breach of any covenant or agreement hereunder shall be deemed to extend to any prior or subsequent default or affect in any way any of RFTA's rights arising by virtue of any prior or subsequent default.

17. Severability. Any term or provision of this License Agreement that is held by a court of competent jurisdiction to be invalid or unenforceable shall not affect the validity or enforceability of the remaining terms and provisions of this License Agreement.

18. Entire Agreement. This License Agreement constitutes the entire agreement between the parties and supersedes all prior understandings, agreements or representations among them, written or oral, that may have related in any way to the subject matter hereof.

19. No Third-Party Beneficiaries. This License Agreement defines the rights and duties of the parties hereto and may not be relied upon by any third party as the basis of a claim.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement.

LICENSOR: ROARING FORK TRANSPORTATION AUTHORITY	**LICENSEE:**
By:_____	By:_____
Dan Blankenship, CEO	

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Dan Blankenship as CEO of the Roaring Fork Transportation Authority.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF_____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____ as _____ of _____.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public