

## EARLY ACCESS LICENSE AGREEMENT

This Early Access License Agreement (“License”) is made and effective this \_\_17day of \_\_June\_, 2022, by and between (a) The City of Saxman, Alaska (“Licensor”), an Alaska municipal corporation, and (b) Three Bears Alaska, Inc. (“Licensee”), an Alaskan corporation (collectively referred to as “Parties,” and each as a “Party”).

Whereas, the Parties are in the process of negotiating a lease under which Licensee will construct and operate a retail facility on the property of the Licensor, including the existing warehouse building; and,

Whereas, Licensee desires to begin the work required to re-route existing utilities and to remodel the existing warehouse to accommodate the retail use; and,

Whereas, that work includes relocation of conduit and cabling serving the antenna tower and demolition of interior improvements in the warehouse to facilitate construction; and,

Whereas, the Parties desire to enter into a license agreement allowing Licensee to begin this work prior to completion of the Parties’ negotiations on a long term lease.

Now, therefore, the Parties agree as follows:

### **A. Term of License.**

The term of this License shall begin on \_\_06/17/2022. The term of this License shall terminate upon the first to occur of December 31, 2022 or the execution, formation and delivery of a mutually agreed upon lease for the property described in **Exhibit B** between the Licensor and Licensee (the “Lease”).

### **B. Grant.**

1. Licensor hereby grants to Licensee the exclusive right of access, for the purpose of removing railroad tracks from the north side of the building, relocating power and GCI Fiber Line consistent with the drawing prepared by GCI and attached as **Exhibit A** to this License, and demolition inside the warehouse on Licensor’s property (“Property”) in Alaska, more particularly described in **Exhibit B** to this License.

2. Subject to the terms of this License, Licensee shall have the right to utilize the Property in such a manner, and at whatever times as necessary to carry out the activities listed in Section B.1.

### **C. Restrictions.**

1. Licensee shall not have the right to occupy the Property, nor shall the Licensee permit any third party to enter upon or occupy the Property, except as stated in the next sentence.

Any employee, contractor, contractor employee or agent of Licensee may enter upon the Property for effecting the purposes of this License.

2. Licensee's activities shall not interfere with any other activity that Licensor may conduct on the Property.

3. Licensee shall conduct all of its operations under this License in a manner in accordance with workmanlike standards common to the construction industry and shall comply with any and all applicable laws, regulations, and permits. Licensee shall not create any private or public nuisance on the Property.

4. Licensee will not, without prior written consent of the Licensor, erect or permit to be erected on the Property any non-removable structure or building.

5. Licensee will control soil erosion as completely as practicable by adherence to any applicable best management practices, and by filling in or otherwise controlling small washes or ditches that may form.

6. Licensee shall not release any Hazardous Material, defined below, onto or into the Property in a manner inconsistent with applicable law. In the event of any unauthorized or other improper release of any Hazardous Material onto or into the Property, Licensee (a) shall promptly notify the Licensor and any governmental authority that must be notified, (b) shall promptly initiate operations to clean up and remediate such release, and (c) shall take all actions necessary to clean up and remediate any such release in accordance with the requirements of any applicable law, rule, regulation, code, ordinance, order, decree, judgment, injunction, notice, or binding agreement issued, promulgated, or entered into by any governmental authority relating to such Hazardous Material. As used herein, "Hazardous Material" shall mean any substance, product, waste, or other material which now or hereafter is listed, regulated, or addressed as being an explosive, flammable, hazardous, polluting, radioactive, toxic, or similarly harmful substance, product, waste, or other material under any environmental law, including but not limited to (1) any substance included within the definition of "hazardous waste" pursuant to Section 1004 of RCRA; (2) any substance included within the definition of "hazardous substance" pursuant to Section 101 of CERCLA; (3) any substance included in the definition of "hazardous waste" pursuant to AS 46.03.900; (4) any substance included in the definition of "hazardous substance" pursuant to AS 46.03.826; (5) asbestos or any asbestos-containing material; (6) polychlorinated biphenyls; and (7) petroleum, petroleum products, and petroleum distillates.

7. Should the Parties fail to enter into the Lease for the Property before the end of the term of this License, Licensee shall leave the Property in a clean and orderly condition with the warehouse in a condition usable as a warehouse and ready for construction of interior improvements.

**D. Reservation of Rights by Licensor.** Licensor hereby reserves from the grants set forth in this License all other rights and interests in, to or relating to the Property which are not specifically granted to Licensee herein.

**E. License Fee.** Upon execution of this License, Licensee shall pay to Licensor a total License fee of One Hundred Thousand and 0/100 Dollars (\$100,000.00), which will be applied to the rent due under the Lease. Should the Parties fail to enter into the Lease for the Property before the end of the term of this License, Licensor shall retain the License fee as compensation for lost rents during the term of the License.

**F. Indemnification.**

1. **General.** Licensee agrees that it shall defend, indemnify and hold harmless Licensor, its affiliates, and all of its subsidiaries, parents, predecessors, successors, successors in interest, assigns, licensees, trusts, trustees, beneficiaries, spouses, brokers, agents, representatives, attorneys, servants, employees, principals, shareholders, members, directors, officers, venturers, insurers and sureties from and against any and all claims, losses, damage, demands, actions, suits, obligations, liabilities, charges, costs, expenses, attorneys' fees, property damage, death, personal injury judgments or settlements which are based upon, arise out of, result from or are connected with any act or omission by Licensee, its agents, employees, contractors or invitees (or the agents, employees, or invitees of Licensee's contractors) resulting from or arising out of or incident to or connected in any way with Licensee's use or occupancy of the Property, the exercise of any of the privileges herein granted and/or this License.

2. **Environmental Indemnity.** Without limiting the generality of the foregoing Subsection 1, Licensee shall indemnify, defend, and hold Licensor harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses which arise during or after the term of this License and which result from, or arise out of or incident to or in connection with or are in any manner related to the presence of Hazardous Material on the Property, including, without limitation, Licensor's costs incurred in connection with any investigation of environmental or other site conditions or any cleanup, remedial, removal, or restoration work due to Hazardous Material.

**G. Insurance.**

Upon execution of this License and without limiting Licensee's indemnification, it is agreed that Licensee shall purchase, at its own expense, and maintain in force at all times during the term of this License, the policies of insurance specified below. Licensee shall maintain insurance with an insurance company qualified to do business in Alaska for the duration of the License as required by law, including a provision for a thirty (30) day advance notification to Licensor in the event of cancellation or any material change in the coverage of the insurance. Licensor shall be named as additional insured. Said policy will include a waiver of all rights of subrogation by the insurer against Licensor. The coverage shall in no case be less than the following limits:

1. Comprehensive General Liability Coverage Limits (\$5,000,000 per occurrence, \$5,000,000 aggregate).

2. Licensee shall abide by and comply with all provisions of the Alaska Workers' Compensation Act, and other industrial insurance laws of the State of Alaska, and shall make all

payments, contributions and other remittances and all reports, returns and statements required of employers under said laws. Licensee agrees to indemnify and hold harmless Licensor against any costs, loss, liability, obligation or lien which may arise as a consequence of or which may grow out of any failure of Licensee to fully comply with said laws.

## **H. General Provisions.**

1. Entire Agreement. This License (including any attached exhibits and any written amendments executed by the Parties) constitutes the entire License and supersedes all prior and contemporaneous agreements, understandings, contracts, representations, promises, acknowledgments, warranties and covenants, oral or written, by and between the Parties to this License with respect to the subject matter of this License.

2. Headings/Severability. The section and paragraph headings in this License are for reference purposes only and shall not affect, narrow or broaden the meaning, scope or interpretation of this License. If any provision of this License shall be declared void or unenforceable by any judicial or administrative authority, the validity of any other provision and of the entire License shall not be affected thereby.

3. Governing Law/Jurisdiction/Venue. This License, and the respective rights, remedies, obligations and transactions contemplated by it, shall be governed by, construed and enforced in accordance with the laws of the State of Alaska and the United States of America without respect to conflicts of law principles. In the event that a question or dispute should arise with respect to this License, the Parties waive trial by jury and agree to submit such question or dispute to the personal jurisdiction and venue of a court of subject matter jurisdiction located in the Third Judicial District, State of Alaska, sitting in Anchorage. If litigation results from or arises out of this License or the performance of it, the Parties agree to reimburse the prevailing Party's reasonable attorneys' fees, court costs, and all other expenses, in addition to any other relief to which the prevailing Party may be entitled at law or in equity.

4. Amendment/Assignment/Survival. No change, modification, amendment, or addition to this License will be valid unless it is in writing and signed by the Parties. This License cannot be assigned to any other party and any purported assignment shall be null and void. All rights, remedies, duties, obligations, covenants, agreements, representations, and warranties made herein shall survive the formation, execution and delivery of this License.

5. Time of Performance. Time is of the essence of this License. It is the express intention of all of the Parties to this License that no extensions or grace periods beyond the deadlines set forth in this License shall be provided, because all intended extensions and grace periods have been taken into consideration in establishing such deadlines.

6. Parties Bound/Benefitted. The covenants, terms and conditions contained in this License shall be binding upon and inure to the benefit of the heirs, beneficiaries, agents, assigns, attorneys, successors and successors in interest of the respective Parties hereto. No unnamed third parties are intended to be benefitted by this License.

7. Limitations on Waivers. Any failure or delay by any Party to object to any default or exercise any rights or remedies under this License shall not constitute a waiver of the right to do so in the future, unless such failure is accompanied by an express written waiver by such Party.

8. Remedies. Except as otherwise expressly provided in this License, the Parties shall be entitled to any and all remedies provided by law and all such remedies shall be cumulative.

9. Counterparts. This License may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute a single agreement. This License shall not become binding upon any Party unless and until all Parties have executed at least one counterpart of this License.

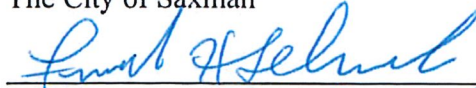
10. Interpretation of the Agreement. This License is the result of a process in which Licensor had a full and unrestricted right to examine this License and a full and unrestricted benefit of consulting with legal counsel prior to executing it and accordingly this License shall not be construed against the drafting Party.

11. Relationship of the Parties. Nothing in this License shall be construed to make the Licensor an agent, a partner, or a joint venturer with the Licensee.

IN WITNESS WHEREOF, the Parties have signed this License on the date first above written.

**LICENSOR:**

The City of Saxman

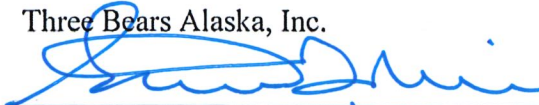


Printed name: Frank H. Selvado

Title: Mayor

**LICENSEE:**

Three Bears Alaska, Inc.



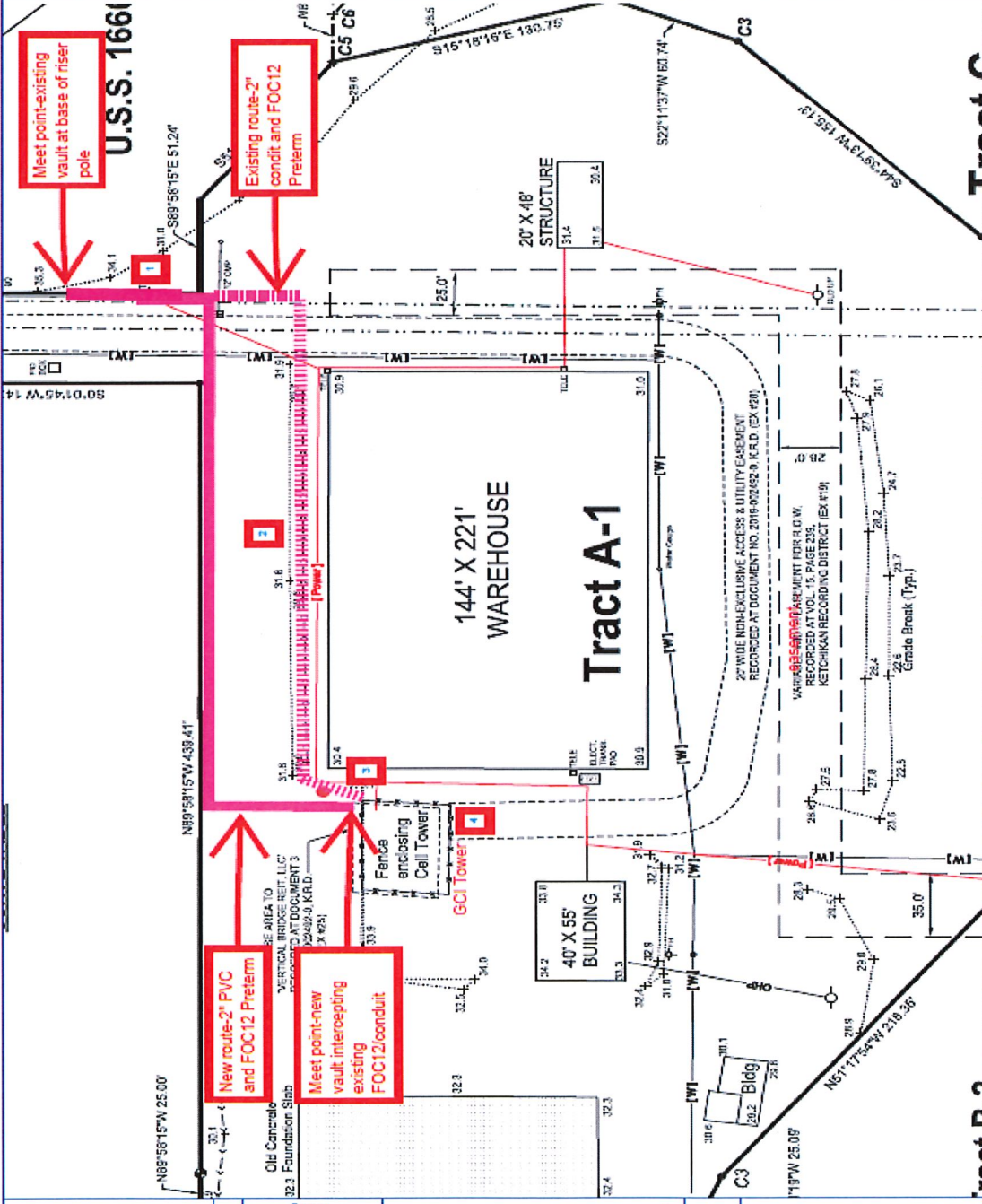
Printed name: Stephen J. Mierop

Title: Vice President

**EXHIBIT A**

- 1 At existing vault begin trenching and installing 500' of 2" PVC conduit in path indicated.
- 2 Approximate route of existing conduit indicated. New 2" PVC Conduit to be installed parallel to the North Property Line as indicated.
- 3 At the meet point of old and new conduits set a new vault. Carefully window into the old existing 2" conduit then carefully cut conduit preserving the active FOC12 and providing a path that the current active FOC12 takes into the fenced Cell Tower to the existing FDP.
- 4 From FDP pull new FOC12 Preterm back to the existing aerial GCI Splice Enclosure leaving 150' neatly coiled at the Splice Enclosure and the remaining slack stored neatly in the new vault at call-out 3.

Approximate footages:  
Trenching: 400'  
New FOC12: 750'



Meet point-existing vault at base of riser pole

Existing route-2" conduit and FOC12 Preterm

New route-2" PVC and FOC12 Preterm

Meet point-new vault interconnecting existing FOC12/conduit

PROJECT NAME:  
Relocate LIG fiber for KTC - GCIW 2868 S TONGASS HWY - Saxman  
ER24460  
WCH221070  
KTN-K103 Grid 4765  
GSICS:

5151 Fairbanks Street  
Anchorage, Alaska  
99503  
COMMUNICATION CORP

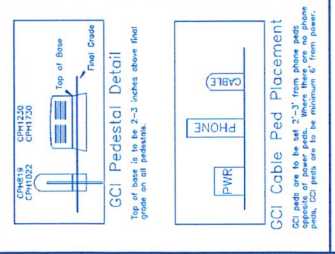
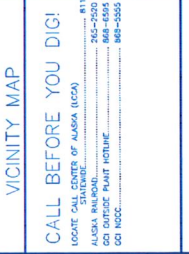


ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
X	POWER POLE				
X	JOINT USE POLE				
X	CITY POLE				
X	TELEPHONE POLE				
X	CONCRETE POLE				
X	PRIVATE POLE				
X	METAL POLE				
X	EXISTING ANCHOR				
X	SET ANCHOR				
X	SHRINK ANCHOR				
X	STUTT ANCHOR				
X	EXTENSION ARM				
X	US SURS POTENTIAL				
X	US SURS EXISTING				
X	US SURS POTENTIAL				
X	MULTI UNIT SURS				
X	TOTAL EXISTING SURS				
X	TOTAL POTENTIAL SURS				
X	COMMERCIAL SURS				

DATE:	ACT:

NO.	DATE:	ACT:	REVISION

VICINITY MAP  
CALL BEFORE YOU DIG!  
LOCATE CALL CENTER OF ALASKA (LCCA)  
ALASKA INFRASTRUCTURE...  
GO OUTSIDE PLANT HOUSING...  
GO NOCC...



NOT TO SCALE

500' CABLE	
300' CABLE	
750' CABLE	
300' CABLE	
1,000' CABLE	
F288	
FIBER OPTIC CABLE	
UNDERGROUND ROUTING	
AERIAL ROUTING	

DRAWN BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
PROJECT ENGINEER: \_\_\_\_\_ DESIGN/CONSTRUCTION/ASBUILT REVISION  
NO. \_\_\_\_\_

## **EXHIBIT B**

Tract A-1 of the Plat Alteration of Tract C-1 and a portion of U.S. Survey No. 1666 according to Plat No. 2002-46, records of the Ketchikan Recording District, First Judicial District, State of Alaska.

Tract C, Alaska Tideland Survey No. 1465, according to Plat No. 98-9, Ketchikan Recording District, First Judicial District, State of Alaska.