JACQUELINE M. BISKUPSKI
Mayor

MIKE REBERG

DEPARTMENT *of* **COMMUNITY** *and* **NEIGHBORHOODS**

CITY COUNCIL TRANSMITTAL

David Litvack, Deputy Chief of Staff

Date Received: November 14, 2018
Date sent to Council: November 14, 2018

TO: Salt Lake City Council
Erin Mendenhall, Chair

DATE: November 14, 2018

FROM: Mike Reberg, Director Department of Community & Neighborhoods

SUBJECT: CenturyLink Franchise Agreements

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DOCUMENT TYPE: Ordinance

RECOMMENDATION: Pass the Ordinances granting the telecommunications franchises to CenturyLink entities: (1) CenturyLink Communications LLC, (2) Qwest Corp dba CenturyLink Communications, LLC, and (3) collectively Level 3 Communications, LLC and Level 3 Telecom LP

BUDGET IMPACT: None

BACKGROUND/DISCUSSION: Several CenturyLink related entities are authorized to provide telecommunications services throughout the State of Utah servicing business and government customers with competitive local exchange voice and data services, internet access, private line service, cell site front-haul and back-haul capacity using fiber optic cables. (1) CenturyLink Communications LLC, (2) Qwest Corp dba CenturyLink Communications, LLC, and (3) collectively Level 3 Communications, LLC and Level 3 Telecom LP. These three entitieswish to obtain a new, non-exclusive franchise to provide telecommunications services within Salt Lake City. The Franchises would allow the CenturyLink entities to place the respective facilities within the City rights-of-way, governed by certain conditions and after

securing permits, and provide for the payment of the telecommunications tax pursuant to state statute. CenturyLink and the City negotiated the terms of the proposed Franchise Agreements, attached as Exhibit "A" in each of the Ordinances.

PUBLIC PROCESS: None

EXHIBITS:

1. CenturyLink Communications, LLC Ordinance
   a) Franchise Agreement

2. Qwest Corporation d/b/a Century Link QC Ordinance
   a) Franchise Agreement

3. Level 3 Communications, LLC and Level 3 Telecom LP Ordinance
   a) Franchise Agreement

SALT LAKE CITY ORDINANCE
No. __ of 2018
(Granting a Telecommunication Franchise to
CenturyLink Communications, LLC)

WHEREAS, CenturyLink Communications, LLC (the "Company") desires to provide certain telecommunication services within Salt Lake City, Utah (the "City"), and in connection therewith to establish a network in, under, along, over, and across present and future streets, alleys and rights-of-way of the City, consisting of telecommunication lines and cables, together with all necessary and desirable appurtenances; and

WHEREAS, the City, in the exercise of its police power, ownership, use or rights over and in the public rights-of-way, and pursuant to its other regulatory authority, believes it is in the best interest of the public to provide to the Company, and its successors, a non-exclusive franchise to operate its business within the City; and

WHEREAS, the City and the Company propose to enter into a Franchise Agreement, the substantially final form of which has been presented to the City Council at the meeting at which this Ordinance is being considered for adoption; and

WHEREAS, the City desires to approve the execution and delivery of such Franchise Agreement and to otherwise take all actions necessary to grant the referenced Franchise to the Company; and

WHEREAS, the City believes this Ordinance to be in the best interest of the citizens of the City,

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. Purpose. The purpose of this Franchise Ordinance is to grant to the Company, and its successors and assigns, a non-exclusive right to use the present and future streets, alleys, viaducts, bridges, roads, lanes and public way within and under control of the City for its business purposes, under the constraints and for the compensation enumerated in the Franchise Agreement attached hereto as Exhibit A, and by this reference incorporated herein, as if fully set forth herein (the "Franchise Agreement").

SECTION 2. Short Title. This Ordinance shall constitute the CenturyLink Communications, LLC Telecommunications Franchise Ordinance.

SECTION 3. Grant of Franchise. There is hereby granted to the Company, and its successors and assigns, in accordance with the terms and conditions of the Franchise Agreement, the right, privilege, and franchise (collectively, the "Franchise"), to construct, maintain and operate in, under, along, over and across the present and future streets, alleys, and rights-of-way and other property of the City, all as more particularly described in the Franchise Agreement.

SECTION 4. Term. The term of the Franchise is for a ten (10) year period from and after the recordation of the executed Franchise Agreement with the Salt Lake City Recorder's Office, with a year to year automatic extension that can be terminated on at least 90 days' written notice before the end of the existing term.

The Company shall pay all costs of publishing this Ordinance.

SECTION 5. Acceptance by Company. Within thirty (30) days after the effective date of this Ordinance, the Company shall execute the Franchise Agreement and

return it to the City, otherwise, this Ordinance and the rights granted hereunder shall be null and void.

SECTION 6. No Franchise revocation or termination may be effected until the City Council shall first adopt an ordinance terminating the Franchise and setting forth the reasons therefor, following not less than thirty (30) days prior written notice to the Company of the proposed date of the ordinance adoption. The Company shall have an opportunity on said ordinance adoption date to be heard upon the proposed termination.

SECTION 7. This Ordinance shall take effect immediately upon publication.

[Signatures on Following Page.]

Passed by the City Council of Salt Lake City, Utah, this ____ day of _____, 2018.

_____
CHAIRPERSON

ATTEST:

_____
CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____Approved. _____Vetoed.

_____
MAYOR

ATTEST:

_____
CHIEF DEPUTY CITY RECORDER

(SEAL)

Salt Lake City Attorney's Office
Approved As To Form
By: _____
Kimberly Chytraus
Date: October 11, 2018

Bill No. _____ of 2018.
Published: _____.
HB_ATTY-#73453-v1-ORD_Franchise_Agreement_CenturyLink_Communications__LLC_

EXHIBIT “A”

FRANCHISE AGREEMENT

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (this "**Agreement**"), dated as of the Effective Date (defined below), by and between SALT LAKE CITY CORPORATION, a Utah municipal corporation (the "**City**"), and CenturyLink Communications, LLC (the "**Company**").

RECITALS

A. The Company desires a non-exclusive franchise to provide telecommunications, Internet and other related services to residents, businesses, and other customers within the boundaries of Salt Lake City, Utah, and to utilize public rights-of-way controlled by the City for such purpose.

B. The City considers it to be in the best interests of the City, and in furtherance of the health, safety, and welfare of the public, to grant such franchise to the Company, and in connection therewith desires to authorize the use of public rights-of-way controlled by the City in accordance with the provisions of this Agreement, and all applicable City ordinances and state and federal law, including, without limitation, the Federal Telecommunications Act of 1996 (the "**Telecommunications Act**").

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration and, further, in contemplation of subsequent approval by legislative action of the City Council as hereinafter provided, the parties mutually agree as follows.

ARTICLE I
FRANCHISE ORDINANCE

1.1 Ordinance. The City Council has adopted a franchise ordinance entitled CenturyLink Communications, LLC Telecommunications Franchise Ordinance (the "**Ordinance**"), approving the execution of this Agreement. Execution of this Agreement constitutes the unqualified acceptance of the Ordinance by the Company. Such Ordinance is incorporated herein by reference, and made an integral part of this Agreement.

1.2 Franchise Description. The Ordinance confers upon the Company, and its successors and assigns, the right, privilege, and franchise (the "**Franchise**"), to construct, maintain and operate in, under, along, over, across, and through portions of the Right-of-Way (as defined in Section 3.1 hereof), facilities consisting of telecommunication lines and cables (including, without limitation, fiber-optic and copper lines and cables), together with all necessary and desirable appurtenances (including without limitation underground and above ground conduits and structures, poles, towers, wire and cable) (collectively the "**Company Facilities**"). Upon the annexation of any territory to the City, all rights hereby granted, and the Franchise, shall automatically extend to the territory so annexed, to the extent the City has authority to so extend the Franchise. All facilities owned, maintained, or operated by the Company located within, under, or over public rights-of-way of the territory so annexed shall thereafter be subject to all terms hereof. The Company Facilities may be used by the Company (and others, as provided herein),

for the purpose of providing any of the services contemplated to be provided by telecommunications providers under the Telecommunications Act, and involving any switched or other one-way or two-way transmission of voice or data, including but not necessarily limited to (i) services interconnecting interexchange carriers for the purpose of any transmission of voice or data; (ii) services connecting interexchange carriers or competitive access carriers to local exchange providers for the purpose of any transmission of voice or data; (iii) services connecting interexchange carriers to any entity, other than another interexchange carrier or the local exchange provider for the purpose of any transmission of voice or data; (iv) services providing private line point-to-point service for end users for the purpose of any transmission of voice or data; (v) video, video conferencing or point-to-point private line service, or (vi) any service regulated by state regulatory agencies or the Federal Communications Commission which the state of Utah or Federal Communications Commission has authorized the Company to provide.

Anything in this Agreement to the contrary notwithstanding, the Company may not use the Company Facilities to provide, to any customer within the City, cable television services as defined in the federal Cable Communication Policy Act of 1984, as amended, without a separate franchise therefor.

1.3 Term. The term of the Franchise is ten (10) years commencing on the date both parties have signed this Agreement (with the City's signature evidenced by recordation with the Salt Lake City Recorder) (the "**Effective Date**"), and then from year-to-year until a party gives the other party at least ninety (90) days' notice in writing and in advance of expiration of the initial term or any subsequent term stating an intent to terminate the Agreement at the end of such existing term.

ARTICLE II
FRANCHISE FEE; ADMINISTRATION FEE

2.1 Franchise Fee. (a) For and in consideration of the Franchise, and as fair and reasonable compensation to the City for the use by the Company of the City's Right-of-Way, the Company will pay to the State of Utah for the benefit of the City an annual franchise fee (the "**Franchise Fee**"), in an amount equal to, and consisting of, the municipal telecommunications license tax (the "**Municipal Telecommunications Tax**") authorized pursuant to the Utah Municipal Telecommunications License Tax Act, Title 10, Chapter 1, Part 4, Utah Code Annotated 1953, as amended (the "**Municipal Telecommunications Tax Act**"). Such Franchise Fee shall be calculated in the manner provided in the Municipal Telecommunications Tax Act, and shall be paid by the Company to the Utah State Tax Commission, as agent for the City under an Interlocal Cooperation Agreement by and among the City, the Utah State Tax Commission, and others, at the times and in the manner prescribed in the Municipal Telecommunications Tax Act, and any rules and regulations promulgated thereunder. Compliance by the Company with the terms and provisions of the Municipal Telecommunications Tax Act, and any rules and regulations promulgated thereunder, shall satisfy all requirements of this Agreement with respect to the calculation and payment of the Franchise Fee.

(b) Notwithstanding the provisions of Section 2.1(a) above, the Franchise Fee shall be calculated and payable as described therein only so long as the Company and the services provided within the City by the Company by means of the Company Facilities are subject to the Municipal

Telecommunications Tax. This franchise does not contemplate or permit Company to provide cable television service and to the extent all or any portion of the Company Facilities is used to provide cable television service, Company shall acquire a separate franchise for same. In the event all or any portion of the Company Facilities ceases to be used by the Company to provide services subject to the Municipal Telecommunications Tax, the Company shall pay, in lieu of the Franchise Fee, a charge with respect to such portion of the Company Facilities, which shall be calculated as 3.5% of "gross revenue" (as defined in Utah Code Section 10-1-402). Such fee shall be paid annually, payable from and after (i) the date Company ceases to provide such services, or (ii) the date the Municipal Telecommunications Tax ceases to apply to the services provided by the Company. If at any time the Municipal Telecommunications Act is changed in such a way as to affect this Franchise in any way, the City and the Company agree to negotiate in good faith within sixty (60) days any amendments to this Agreement as shall be necessary to accommodate such changes, including payment provisions; provided such new or changed provisions shall conform substantially with the provisions contained in any permits held by other similarly situated companies.

2.2 Report of Franchise Fee Payment. Upon the written request of the City, the Company shall prepare and deliver to the City, an annual report summarizing Company payments to the Utah State Tax Commission for the requested period. Such report shall include such information related to such payment as the City shall reasonably request, including by way of example, and not limitation, the gross receipts of the Company from telecommunications service that are attributed to the City during such period, and the methodology for calculating such gross receipts.

2.3 Record Inspection. The records of the Company pertaining to the annual reports and payment required in this Agreement, including but not limited to any records deemed necessary or useful by the City to calculate or confirm gross receipts, and all other records of the Company reasonably required by the City to assure compliance by the Company with the terms of this Agreement ("Company Confidential Information"), shall be open to inspection by the City and its duly authorized representatives upon reasonable notice at all reasonable business hours of the Company. The Company may require such inspection to be performed at any Company Facilities where such Company Confidential Information may be located; provided that in the event such Company Confidential Information is not located at Company Facilities within the City, such Company Confidential Information shall be delivered by the Company for inspection by the City at the address of the City set forth in Section 13.1 hereof. City will hold in strict confidence and will keep confidential all Company Confidential Information. City will use reasonable care to avoid publication or dissemination of such Company Confidential Information. City will not disclose Company Confidential Information to any third person. Notwithstanding the previous sentence, City may disclose Company Confidential Information to its employees, officers, directors, consultants, advisors and agents (collectively, "Representatives") to the extent reasonably necessary to carry out the inspection; provided, however, that such Representatives are informed of the confidential nature of the Company Confidential Information, and are bound by confidentiality obligations no less stringent than those set forth herein. Notwithstanding the forgoing, Company acknowledges that City is subject to the requirements of GRAMA as provided for in Paragraph 15.7 below. Company specifically waives any claims against City related to

disclosure of any materials as required by GRAMA.

2.4 Service of Process. The Company agrees to use its best efforts to provide a local office within the State of Utah for purposes of acceptance of process. Otherwise, the Company agrees to advise City of a person or office where such process may be served.

2.5 Administrative Fee. In addition to the annual Franchise Fee described above, the Company shall pay to the City, upon execution and delivery hereof, a one-time administrative fee of $5,000, which shall compensate the City for (but which does not exceed), the direct costs and expenses incurred by the City in preparing, considering, approving, executing and implementing the Ordinance and this Agreement.

ARTICLE III
COMPANY USE OF RIGHT-OF-WAY

3.1 Franchise Rights to Use Right-of-Way. (a) The Company shall have the right to excavate in, and use any present and future City-owned or controlled street, alley, viaduct, bridge, road, lane and public way within the City, including the surface, subsurface and airspace (collectively the "**Right-of-Way**"), subject to the terms and conditions of this Agreement and in locations where Company obtains appropriate permits. In addition, the Company shall have the right to utilize any easement across private property granted to the City for utility purposes, provided (i) the prior written consent of the director of the City department which controls such easement is obtained in each case, and (ii) the documents granting such easement to the City authorize such use. In all cases, the precise location of the Company Facilities within, on, over, under, across or through the Right-of-Way shall be subject to City's reasonable and lawful approval, and the right to use such Rights-of-Way shall be subject to the terms of this Agreement, and all applicable federal, state, and City laws, ordinances, rules, and regulations now existing or from time to time adopted or promulgated.

(b) The rights granted to the Company herein do not include the right to (i) excavate in, occupy or use any City park, recreational areas or other property owned by the City, or (ii) attach or locate any of the Company Facilities to or on, or otherwise utilize any of, any City-owned property or facilities or structures, including without limitation light poles, towers, buildings and trees. The use of such City-owned property or facilities by the Company shall be considered by the City on a case-by-case basis, and shall be subject to payment of additional compensation to the City. Similarly, the rights granted herein by the City to the Company do not include the right to situate any Company Facilities on poles or other property owned by entities other than the City and situated in the City's Right-of-Way. It shall be the responsibility of the Company to negotiate any pole-attachment agreements or similar agreements with the owners of such poles or facilities, and to pay to such owners any required compensation.

3.2 Duty to Relocate. (a) Whenever the City shall require the relocation or reinstallation of any of the Company Facilities situated within the Right-of-Way, it shall be the obligation of the Company, upon notice of such requirement and written demand made of the Company, and within a reasonable time thereof, but not less than sixty (60) days from the date of

notice, to commence to remove and relocate or reinstall such Company Facilities as may be reasonably necessary to meet the requirements of the City, which relocation shall be completed within a reasonably practicable time thereafter, but in no event longer than one hundred twenty (120) days, unless extended by mutual agreement. In exigent circumstances, Company will work with City to cause such relocation to be completed as quickly as possible. Such relocation may be required by the City for any lawful purpose, including, without limitation, the resolution of existing or anticipated conflicts or the accommodation of any conflicting uses or proposed uses of the Right-of-Way, whether such conflicts arise in connection with a City project or a project undertaken by some other person or entity, public or private. The City will cooperate with the Company to provide alternate space where available, within the Right-of-Way, at no additional cost to the Company.

(b) Such relocations, as described above in subsection (a), shall be accomplished by the Company at no cost or expense to the City. In the event the relocation is ordered for other purposes, including but not limited to projects undertaken in whole or in part to accommodate the facilities, development or other project of an entity other than the City or the Company, the cost and expense of such relocation shall be borne by such other entity. Any money and all rights to reimbursement from the State of Utah or the federal government to which the Company may be entitled for work done by the Company pursuant to this paragraph, shall be the property of the Company. City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

3.3 City Duty to Obtain Approval to Move Company Property; Emergency Exception. Except as otherwise provided herein, the City shall not, without the prior written approval of the Company, intentionally alter, remove, relocate or otherwise interfere with any portion of the Company Facilities. However, if it becomes necessary, in the judgment of the City Representative (as defined in Section 6.1 hereof), to cut or move any of the Company Facilities because of a fire, flood, emergency, earthquake disaster or other imminent threat thereof, or to relocate any portion of the Company Facilities upon the Company's failure to do so following a request by the City under Section 3.2 hereof, these acts may be done without prior written approval of the Company and the repairs thereby rendered necessary shall be made by the Company, without charge to the City. Any written approval required shall be reviewed and processed by the Company within seven calendar days and approval shall not be unreasonably withheld, conditioned, or delayed.

3.4 Annual Information Coordination. Upon reasonable request, and no more than once per year, the Company and City shall meet for the purpose of exchanging information and documents regarding known or anticipated construction and other similar work within the City, with a view toward coordinating their respective activities in those areas where such coordination may prove mutually beneficial.

3.5 Common Use of Facilities. (a) In order to minimize the adverse impact to the Right-of-Way and to City facilities, and inconvenience to the public, caused by construction, repair and maintenance activities multiple utility franchisees, it is the policy of the City to encourage the shared use of telecommunication facilities by City franchisees and permittees whenever

practicable.

(b) Except when necessary to service a subscriber, and subject to the written approval and conditions of the City, the Company will endeavor to, prior to constructing any Company Facilities, fully utilize any excess capacity reasonably and cost-effectively available on any existing poles or within any existing conduit, under such terms and agreements as the Company negotiates with the owners of such poles or conduits. The City shall cooperate with the Company in negotiating and obtaining permission to use such facilities.

(c) Intentionally deleted.

(d) No Company Facilities shall be installed or the installation thereof commenced on any existing pole within the Right-of-Way until the proposed location, specifications and manner of installation thereof are set forth upon a plot or map showing the existing poles, where such installations are proposed. The plot or map shall be submitted for approval to the City Representative.

(e) If the Company is required to locate Company Facilities within the Right-of-Way other than Company Facilities which may be attached to utility poles, the nature of such Company Facilities shall be disclosed to the City Representative for approval as to the need thereof and as to the location within the Right-of-Way. The installation shall be made under such reasonable and lawful conditions as the City Representative shall prescribe.

(f) The Company may trim at its own expense any trees or other vegetation overhanging the Right-of-Way of the City to prevent interference with Company Facilities. All trimming on City property shall be done with the approval of and under the direction of the City's Urban Forester and at the expense of the Company.

(g) The Company shall, at the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of such building. The expense of such temporary removal or raising or lowering of the wires shall be paid by the person requesting the same and the Company shall have the authority to require such payment in advance. The City agrees to cause prior written notice of the necessity to move wires to be given as far in advance as possible, provided that in no event shall less than thirty (30) days' advance notice be given.

3.6 Duty to Underground. (a) The Company shall be required to comply with the rules and regulations of the Public Service Commission in regard to the installation of underground lines. In addition, the Company shall comply with rules and regulations adopted by the City for the placement of newly constructed network lines underground; provided, however, Company shall only be required to place newly constructed network lines underground to the extent that underground placement is also required of all other existing and newly constructed lines of other telecommunication companies at that location with the City at Company's cost. Undergrounding may be required by the City for any lawful purpose, including, without limitation, the resolution of existing or anticipated conflicts or the accommodation of any conflicting uses or proposed uses of the Right-of-Way, whether such conflicts arise in connection with a City project or a project

undertaken by some other person or entity, public or private. If all other electric utilities or telephone utilities are located or relocated underground in any place within the City after the Company has installed its facilities the Company shall thereafter remove and relocate its facilities underground in such places and within a timeframe agreed to by the parties. Where utilities are underground, the Company may locate certain equipment above ground upon a showing of necessity and with the written approval from the City.

(b) City will cooperate with the Company to provide alternate space where available, within the Right-of-Way, at no additional cost to the Company. Undergrounding, as described above in subsection (a), shall be accomplished by the Company at no cost or expense to the City. In the event the undergrounding is ordered for other purposes, including but not limited to projects undertaken in whole or in part to accommodate the facilities, development or other project of an entity other than the City or the Company, the cost and expense of such undergrounding shall be borne by such other entity. Any money and all rights to reimbursement from the State of Utah or the federal government to which the Company may be entitled for work done by the Company pursuant to this paragraph, shall be the property of the Company. City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

3.7 Company Duty to Comply With Rules and Regulations. Company Facilities located on, upon, over or under the Right-of-Way shall be constructed, installed, maintained, cleared of vegetation, renovated or replaced in accordance with such lawful rules and regulations as the City may issue. The Company shall acquire, and any fees with respect to, such permits as may be required by such rules and regulations, and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance.

3.8 Intentionally deleted.

3.9 Compliance with Applicable Law. All Company Facilities installed or used under color of this Agreement shall be used, constructed and maintained in accordance with applicable federal, state and City laws and regulations, including without limitation environmental laws; provided that this provision shall not be construed to require the Company to modify or retrofit any existing facilities to meet new code standards unless otherwise required by law. Nothing in this Agreement shall constitute a waiver of either party's right to challenge any portion of this Agreement which is not in accordance with applicable federal, state and local laws.

3.10 Location to Minimize Interference. All Company Facilities shall be reasonably located so as to cause minimum interference with the use of the Right-of-Way by others, and so as to cause minimum interference with the rights of the owners of property which abuts any portion of the Right-of-Way.

3.11 Repair Damage. If during the course of work on Company Facilities, the Company causes damage to or alters any portion of the Right-of-Way, or any City facilities or other public property or facilities, the Company shall (at its own cost and expense and in a manner approved by the City Representative), replace and restore such portion of the Right-of-Way or any City

facilities or other public or private property or facilities, in accordance with applicable City ordinances, policies and regulations relating to repair work of similar character.

3.12 Guarantee of Repairs. For a period of three years following the completion of any work in the Right-of-Way or any repair work performed pursuant to Section 3.11, and excluding damage caused by City or other third party, the Company shall maintain, repair, and keep in good condition those portions of the Right-of-Way or property or facilities restored, repaired or replaced by or on behalf of the Company, to the reasonable satisfaction of the City Engineer.

3.13 Safety Standards. The Company's work, while in progress, shall be properly protected at all times with suitable barricades, flags, lights, flares, or other devices in accordance with applicable safety regulations or standards imposed by law.

3.14 Condition of Company Facilities. The Company shall maintain the general appearance of Company Facilities in a good and workmanlike manner consistent with best industry practice.

3.15 Inspection by the City. The Company Facilities shall be subject to inspection by the City to the extent reasonably necessary to assure compliance by the Company with the terms of this Agreement. The City shall inspect Company Facilities at reasonable times and upon reasonable notice to the Company; provided, however, the inspection shall not interrupt or interfere with any services provided by the Company.

3.16 Company's Duty to Remove Company Facilities from the Right-of-Way.

(a) Subject to subsection (c) below, the Company shall promptly remove from the Right-of-Way all or any part of the Company Facilities, when one or more of the following conditions occur:

(i) The Company ceases to operate such Company Facilities for a continuous period of twelve (12) months, and does not begin operating such Company Facilities as provided below within thirty (30) days after receiving notice following any such cessation from the City, except when the cessation of service is a direct result of a natural or man-made disaster;

(ii) The failure to cure construction or installation of such Company Facilities that do not meet the requirements of this Agreement following notice by City described below; or

(iii) The Franchise is terminated or revoked pursuant to notice as provided herein; provided, however, that the Company need not remove its network if the City continues to receive payments from the state related hereto, and the parties are in discussion of a renewal or replacement franchise or similar agreement.

(b) Upon receipt by the Company of written notice from the City setting forth one or more of the occurrences specified in subsection (a) above, the Company shall have ninety (90) days from the date upon which said notice is received to remove such Company Facilities, or, in the case of subsection (a), to begin operating the Company Facilities.

(c) The Company may abandon any underground Company Facilities in place, subject to the reasonable requirements of the City, and with the prior written consent of the City, which may be granted or withheld in the City's sole and absolute discretion. In such an event, the abandoned system shall become the property of the City and the Company shall have no further responsibilities or obligations concerning those facilities. The City shall not use the possibility of obtaining ownership of the abandoned system as a rationale for terminating or revoking this Agreement.

3.17 Operational Reports. During the period of construction of any Company Facilities, the Company shall furnish the City with written progress reports as required pursuant to the terms of any permit to work in the public way.

3.18 Removal of Facilities Upon Request. Company shall comply with the regulations of the Utah Public Service Commission regarding removal of the Company Facilities.

ARTICLE IV
CITY USE RIGHTS

4.1 City Use of Poles and Overhead Structures. The City shall have the right to enter into a contract with the Company to license for a fee poles and conduit owned by the Company within the City for fire alarms, police signal systems, or any other lawful use; provided, however, any said uses by the City shall be for activities owned, operated or exclusively used by the City for any public purposes and shall not include the provision of telecommunication, communication, or Internet services to third parties.

4.2 Use of Trenches. Whenever the Company proposes to install new underground conduits or replace existing underground conduits within or under the Right-of-Way, it shall notify the City Representative as soon as practical and shall allow the City, at its own expense, and without charge to the Company, to use any such trench opened by the Company to lay the City's facilities therein; provided, (i) that such action will not materially interfere with Company Facilities or delay or otherwise complicate the accomplishment of the Company's project; (ii) any said uses by the City shall be for activities owned, operated or exclusively used by the City for any public purposes and shall not include the provision of telecommunication, communication, or Internet services to third parties; and (iii) that the Company may require the City to agree to reasonable terms and conditions of such use.

4.3 Use of Company Corridors. The City may identify corridors which the Company now or in the future owns in fee within the City and which are similar in nature to transmission corridors of electric utility companies. The City may identify portions of such corridors, if any, as being desirable locations for public parks, playgrounds or recreation areas. In such event, and upon notice by the City, the Company shall discuss with the City in good faith whether an agreement providing for such uses by the City can be reached; provided that such use shall be within the sole discretion of Company The Company shall assume no liability nor shall it incur, directly or indirectly any additional expense in connection therewith.

4.4 Limitation on Use Rights. Nothing in this Article 4 shall be construed to require

the Company to increase pole capacity or trench size, alter the manner in which the Company attaches equipment to the poles or installs facilities, or alter the manner in which it operates and maintains its equipment.

ARTICLE V
POLICE POWER

The City expressly reserves, and the Company expressly recognizes, the City's right and duty to adopt, from time to time, in addition to the provisions herein contained, such ordinances, rules and regulations as the City may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its residents and their properties. This Agreement is subordinate to City's exercise of its police power.

ARTICLE VI
CITY REPRESENTATIVE

6.1 City Representative. Except as provided hereinafter, the City Engineer, or his/her designee, or such other person as the Mayor may designate from time to time (which designation shall be communicated to the Company in writing), is hereby designated the official of the City having full power and authority, along with a representative of the City Attorney's Office, to take appropriate action for and on behalf of the City and its inhabitants to enforce the provisions of this Agreement and to investigate any alleged violations or failures of the Company to comply with said provisions or to adequately and fully discharge its responsibilities and obligations hereunder. The City Engineer or such other designee is referred to herein as the City Representative. The failure or omission of the City Representative to so act shall not constitute a waiver or estoppel. The City Representative shall be the Company's initial point of contact with the City. Unless specifically provided otherwise, all decisions, consents or approvals required of the "City" shall be made or given by the City through the City Representative. The City Representative shall coordinate with other City officials, personnel and departments in all matters relating to this Agreement.

6.2 Company Duty to Cooperate. In order to facilitate such duties of the City Representative, the Company agrees:

(a) To allow the City Representative to inspect at a reasonable time and without interference to Company operations the Company Facilities in accordance with Section 3.15.

(b) That the City Representative may convey to the Company, and, with notice to the Company in accordance with this Agreement, to the Federal Communications Commission, the Utah Public Service Commission and any other regulatory agency having jurisdiction, any complaint of any customer of the Company within the City with respect to the quality and price of telecommunication services and the appropriate standards thereof; provided, however, that City Representative's failure to provide any such notice to the Company shall not constitute a breach of this Agreement.

ARTICLE VII
Intentionally Deleted.

ARTICLE VIII
CONTINUATION OF SERVICE

In the event the Company is or becomes the exclusive local exchange carrier providing basic telephone exchange services within the City, the removal of Company Facilities, and the discontinuation of telecommunication services by the Company within the City, shall be subject to applicable regulations and procedures of the Public Service Commission, or any successor regulatory body.

ARTICLE IX
TRANSFER OF FRANCHISE

(a) The Company shall not sell, transfer, lease, assign, sublet or otherwise make available to any person or entity other than the Company, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the Franchise or any rights or privileges under this Agreement (each, a "Transfer"), to Proposed Transferee, without the prior written consent of the City, such consent will not be unreasonably withheld. The following events (by way of illustration and not limitation) shall be deemed to be a Transfer of the Franchise requiring compliance with this Article: (i) the sale, assignment or other transfer of all or a majority of the Company's assets to another Person; (ii) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in the Company by one or more of its existing shareholders, partners, members or other equity owners, so as to create a new Controlling Interest in the Company; (iii) the issuance of additional capital stock or partnership, membership or other equity interest by the Company so as to create a new Controlling Interest in the Company; or (iv) the entry by the Company into an agreement with respect to the management or operation of the Company or its facilities (including the Company Facilities).

(b) The consent required shall be given or denied by the City not later than one-hundred twenty (120) days following receipt by the City of a written request for consent, and shall not be unreasonably withheld. For the purpose of determining whether it shall grant its consent, the City may inquire into the qualifications of the Proposed Transferee, and the Company shall assist the City in the inquiry. City may condition or deny its consent based on any or a combination of the following or similar criteria. The Proposed Transferee shall indicate by affidavit whether it:

(i) has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(ii) has ever had a judgment entered against it in an action for fraud, deceit, or misrepresentation by any court of competent jurisdiction;

(iii) has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a system similar to the Company Facilities, except that any

such claims, suits or proceedings relating to insurance claims, theft or service, or employment matters need not be disclosed;

(iv) is financially solvent, by submitting financial data, including financial statements, that have been audited by a certified public accountant, along with any other data that the City may reasonably require;

(v) has the financial and technical capability to enable it to maintain and operate the Company Facilities for the remaining term of this Agreement; and

(vi) the use of the Company Facilities and Right-of-Way by the Proposed Transferee are consistent with the uses by the Company permitted under this Agreement.

The Company shall provide to the City information regarding any failure by the Company to comply with any provision of this Agreement or of any applicable customer or consumer service standards promulgated or in effect in the City's jurisdiction at any point during the term of this Agreement.

(c) Notwithstanding the foregoing, the City's consent shall not be required in connection with, and Company shall provide prompt written notice to City of, the following circumstances:

(i) The intracorporate transfer from one wholly-owned subsidiary to another wholly-owned subsidiary of a parent corporation;

(ii) Any transfer in trust, a mortgage, or other instrument of hypothecation of the assets of the Company, in whole or in part, to secure an indebtedness, provided that such pledge of the assets of the Company shall not impair or mitigate the Company's responsibility and capability to meet all its obligations under this Agreement;

(iii) Any sale or other transfer by the Company of equipment or property;

(iv) Interconnection, license, pole attachment or other agreements pursuant to which the Company Facilities may be used by another entity operating within the City (provided, however, that Company acknowledges that such other entity shall be required to obtain any relevant permits from the City); or

(v) Company's acquisition of another entity when the use of the Right-of-Way by the acquired entity is consistent with the use permitted under this Agreement.

(d) Transfer by the Company shall not constitute a waiver or release of any rights of the City in or to its Right-of-Way and any transfer shall by its own terms be expressly subject to the terms and conditions of this Agreement.

(e) A sale, transfer or assignment of this Agreement will only be effective upon the Proposed Transferee becoming a signatory to this Agreement by executing an unconditional acceptance of this Agreement.

(f) For purposes of this Article IX, the following terms shall have the following meanings:

(i) "Control" or "Controlling Interest" means actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the Company Facilities or of the Company. A rebuttable presumption of the existence of Control or a Controlling Interest shall arise from the beneficial ownership, directly, by any person, or group of persons or entities acting in concert, of more than fifty percent (50%) of the Company. "Control" or "Controlling Interest" as used herein may be held simultaneously by more than one Person.

(ii) "Person" means any individual, sole proprietorship, partnership, association or corporation, or any other form of organization, and includes any natural person.

(iii) "Proposed Transferee" means a proposed purchaser, transferee, lessee, assignee or person acquiring ownership or control of the Company.

ARTICLE X
EARLY TERMINATION OR REVOCATION OF FRANCHISE

10.1 Grounds for Termination. The City may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:

(a) The Company fails to make timely payments of the Franchise Fee as required under Article II of this Agreement, or any other fee due to the City under the terms of this Agreement, and does not correct such failure within forty-five (45) business days after receipt of written notice by the City of such failure.

(b) The Company, by act or omission, violates a material term or condition herein set forth within the Company's control, and with respect to which redress is not otherwise herein provided. In such event, the City, acting by or through its City Council, may after public hearing, determine that such failure is of a material nature and thereupon, after written notice given to the Company of such determination, the Company shall, within thirty (30) days of such notice, commence efforts to remedy the conditions identified in the notice, and shall have six (6) months from the date it receives notice to remedy the conditions. After the expiration of such six (6) month period and upon failure by the Company to correct such conditions, the City may declare the Franchise forfeited and this Agreement terminated, and thereupon the Company shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further that in the event such failure is of such nature that it cannot be reasonably corrected within the six (6) month period above, the City shall provide additional time for the reasonable correction of such alleged failure if the Company (i) commences corrective action during such six (6) month period,

and (ii) diligently pursues such corrective action to completion.

(c) The Company becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its facilities are sold under an instrument to secure a debt and is not redeemed by the Company within sixty (60) days.

(d) In furtherance of the Company policy or through acts or omissions done within the scope and course of employment, a member of the Board of Directors or an officer of the Company knowingly: (i) engages in conduct or (ii) makes a material misrepresentation with or to the City, that is fraudulent or in violation of a felony criminal statute of the State of Utah.

(e) Company abandons use of all Company Facilities for 12 consecutive months.

10.2 Reserved Rights. Nothing contained herein shall be deemed to preclude the Company from pursuing any legal or equitable rights or remedies it may have to challenge the action of the City.

ARTICLE XI
COMPANY INDEMNIFICATION; INSURANCE

11.1 No City Liability. The City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death of, any person that may occur in the construction, operation or maintenance by the Company of the Company Facilities; provided, however, that the City will be liable only for its own conduct, subject to and without waiving any defenses, including limitation of damages, provided for in the Utah Governmental Immunity Act (Utah Code §§ 63G-7-101 *et seq.*) or successor provision. Company agrees that the Rights-of-Way are delivered in an "AS IS, WHERE IS" condition and City makes no representation or warranty regarding their condition, and disclaims all express and implied warranties.

11.2 Company Indemnification of City. The Company shall indemnify, defend and hold the City, its officers and employees, harmless from and against all losses, claims, counterclaims, demands, actions, damages, costs, charges, liens and all liability or damage of whatsoever kind on account of or arising from the exercise by the Company of its rights hereunder, and shall pay the reasonable costs of defense, including reasonable attorneys' fees. Said indemnification shall include but not be limited to the Company's intentional or negligent acts or omissions pursuant to its use of the rights and privileges of this Agreement, including construction, operation and maintenance of the Company Facilities whether or not any such use, act or omission complained of is authorized, allowed or prohibited by this Agreement. The Company's duty to defend the City shall exist regardless of whether the City or the Company may ultimately be found to be liable for third party negligence or other conduct. In the event that City's tender of defense is rejected by Company or Company's insurer, and Company is later found by a court of competent jurisdiction to have been required to indemnify City, then in addition to any other remedies City may have, Company agrees to pay the City's reasonable costs, expenses and attorney's fees in proving such liability, defending itself and enforcing this indemnity provision to the extent required by section 11.3 below.

11.3 Notice of Indemnification. The City shall (a) give prompt written notice to the Company of any claim, demand or lien with respect to which the City seeks indemnification hereunder and (b) unless in the City's judgment a conflict of interest may exist between the City and the Company with respect to such claim, demand or lien, permit the Company to assume the defense of such claim, demand, or lien with counsel satisfactory to City. If such defense is not assumed by the Company, the Company shall not be subject to any liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, the Company shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any breach by the City of any obligation under this Agreement or any negligent act or failure to act of the City or any of its officers or employees or agents.

11.4 Insurance.

(a) The Company, at its own cost and expense, shall secure and maintain, and shall ensure that any subcontractor to the Company shall secure and maintain, during the term of this Agreement the following policies of insurance:

(i) Commercial General Liability Insurance. Commercial general liability insurance with the City as an additional insured on a primary and non-contributing basis in comparison to all other insurance including City's own policy or policies of insurance, in the minimum amount of $2,000,000 per occurrence with a $3,000,000 general aggregate and $3,000,000 products completed operations aggregate. These limits can be covered either under a CGL insurance policy alone, or a combination of a CGL insurance policy and an umbrella insurance policy and/or a CGL insurance policy and an excess insurance policy. The policy shall protect the City, Company, and any subcontractors from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from the Company's operations under this Agreement, whether performed by Company itself, any subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, products, and completed operations.

(ii) Commercial Automobile Liability Insurance. Commercial automobile liability insurance that provides coverage for owned, hired, and non-owned automobiles, used in connection with this Agreement in the minimum amount of with a combined single limit of $2,000,000 per occurrence. These limits can be covered either under a commercial automobile liability insurance policy alone, or a combination of a commercial automobile liability insurance policy and an umbrella insurance policy and/or a commercial automobile liability insurance policy and an excess insurance policy. If the policy only covers certain vehicles or types of vehicles, such as scheduled autos or only hired and non-owned autos, Company shall only use those vehicles that are covered by its policy in connection with any work performed under this Agreement.

(iii) Workers' Compensation and Employer's Liability. Worker's compensation and employer's liability insurance sufficient to cover all of the Company's employees

pursuant to Utah law, unless a waiver of coverage is allowed and acquired pursuant to Utah law. In the event any work is subcontracted, the Company shall require its subcontractor(s) similarly to provide worker's compensation insurance for all of the latter's employees, unless a waiver of coverage is allowed and acquired pursuant to Utah law.

(b) General Insurance Requirements.

(i) Any insurance coverage required herein that is written on a "claims made" form rather than on an "occurrence" form shall (A) provide full prior acts coverage or have a retroactive date effective before the date of this Agreement, and (B) be maintained for a period of at least three (3) years following the end of the term of this Agreement or contain a comparable "extended discovery" clause. Evidence of current extended discovery coverage and the purchase options available upon policy termination shall be provided to the City.

(ii) All policies of insurance shall be issued by insurance companies authorized to do business in the state of Utah and either:

(A) Currently rated A- or better by A.M. Best Company*; and*

—OR—

(B) Listed in the United States Treasury Department's current *Listing of Approved Sureties (Department Circular 570), as amended.*

(iii) The Company shall make available a memorandum of insurance, acceptable to the City, verifying the foregoing matters concurrent with the execution hereof and thereafter as required. Evidence of the Company's insurance is available at www.centurylink.com/moi.

(iv) In the event any work is subcontracted, the Company shall require its subcontractor, at no cost to the City, to secure and maintain all minimum insurance coverages required of the Company hereunder.

(v) The aforesaid policies shall provide that said insurance shall not be canceled unless thirty (30) days prior written notice (ten days for non-payment of premium) shall have been given to City (provided, however, that in the event that Company's insurance carrier will not provide such notice to City, then Company must provide such written notice to City within the time frames set forth above on any required coverage that is not replaced).

ARTICLE XII
REMEDIES

12.1 Duty to Perform. The Company and the City agree to take all reasonable and necessary actions to assure that the terms of this Agreement are performed.

12.2 Remedies at Law. In the event the Company or the City fails to fulfill any of its respective obligations under this Agreement, the Party that is not in default may exercise any remedies available to it provided by law; however, no remedy that would have the effect of amending the provisions of this Agreement shall become effective without a formal amendment of this Agreement.

ARTICLE XIII
NOTICES

13.1 City Designee and Address. Unless otherwise specified herein, all notices from the Company to the City pursuant to or concerning this Agreement shall be delivered to the City at Housing and Neighborhood Development Division, Real Estate Services Manager, at 451 South State Street, Room 248, P.O. Box 145460, Salt Lake City, Utah, 84114-5460, with a copy to the City Attorney, at 451 South State Street, Room 505A, P.O. Box 145478 Salt Lake City, Utah 84114-5478, and (b) such other offices as the City may designate by written notice to the Company.

13.2 Company Designee and Address. The Company currently maintains an office and telephone number for the conduct of matters relating to this Agreement and the Franchise during normal business hours and shall provide the City with notice of such address or telephone number changes. Unless otherwise specified herein, all notices from the City to the Company pursuant to or concerning this Agreement or the Franchise shall be delivered pursuant to section 15.9.

ARTICLE XIV
AMENDMENT

14.1 Changing Conditions; Duty to Negotiate. (a) The Company and the City recognize that many aspects of the telecommunications business are currently the subject of discussion, examination and inquiry by different segments of the industry and affected regulatory authorities, and that these activities may ultimately result in fundamental changes in the way the Company conducts its business. In recognition of the present state of uncertainty respecting these matters, the Company and the City each agree, at the request of the other during the term of this Agreement, to meet with the other and discuss in good faith whether it would be appropriate, in view of developments of the kind referred to above during the term of this Agreement, to amend this Agreement or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of any such developments.

(b) Either party may propose amendments to this Agreement by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s).

14.2 Entire Agreement; Amendment Approval Required. This Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, and can be amended, supplemented, modified, or changed only by the written agreement of the parties, including the formal approval of the City Council.

ARTICLE XV
MISCELLANEOUS

15.1 Conditions. If any section, sentence, paragraph, term or provision of this Agreement or the Ordinance is for any reason determined to be or rendered illegal, invalid, or superseded by other lawful authority including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof or thereof, all of which will remain in full force and effect for the term of this Agreement and the Ordinance or any renewal or renewals thereof.

15.2 No Waiver or Estoppel. Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Agreement by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any of such terms and conditions.

15.3 Fee Article Essential. (a) Article II hereof is essential to the adoption of this Agreement.

15.4 Waiver of Non-Severability. Notwithstanding the foregoing, if City stipulates in writing to judicial, administrative or regulatory action that seeks a determination that Article II is invalid, illegal, superseded or unconstitutional, then a determination that Article II is invalid, illegal, unconstitutional or superseded shall have no effect on the validity or effectiveness of any other section, sentence, paragraph term or provision of this Agreement, which shall remain in full force and effect.

15.5 Terms upon Renegotiation. In the event the parties are required to amend or otherwise renegotiate the Agreement pursuant to section 2.1(b) where the Company is no longer required to pay to the State of Utah the Municipal Telecommunications Tax, the Company agrees to remit to City during the term of such negotiations an amount equal to the remittance the City would have received pursuant to said tax attributable to the Company until such time as an amendment to the Agreement is executed; provided, however, that in no event shall the Company be obligated to pay a higher percentage of Gross Revenues derived from the sale of telecommunications services within the City than is paid by other telecommunication companies serving within the City.

15.7 Utah Governmental Records Management Act. Whenever the Company is required to deliver to the City, or make available to the City for inspection, any records of the Company, and such records are delivered to or made available to the City with a written claim of business confidentiality which meets, in the judgment of the City Representative, the requirements of the Utah Governmental Records Management Act ("GRAMA"), such records shall be classified by the City as "protected" within the meaning of GRAMA, and shall not be disclosed by the City except as may otherwise be required by GRAMA, by court order, or by applicable City ordinance

or policy.

15.8 Timeliness of Approvals. Whenever either party is required by the terms of this Agreement to request the approval or consent of the other party, such request shall be acted upon at the earliest reasonable convenience of the party receiving the request, and the approval or consent so requested shall not be unreasonably denied or withheld.

15.9 Notices**.** Any notice(s) required or permitted to be given pursuant to this Agreement may be personally served or may be served by certified mail, return receipt requested, to the following addressees:

City:

Salt Lake City Corporation
c/o Real Estate Services
451 South State St., Room 425
PO Box 145460
Salt Lake City, Utah 84114-5460

Company:

CenturyLink Communications, LLC
250 E 200 S Ste 1000
Salt Lake City, UT 84111
Attention: Local Network Engineering & Construction
with a copy to:

(a) CenturyLink Law Department
931 14th St
Denver, CO 80202
Attention: Network Attorney

and (b) such other offices as the Company may designate by written notice to the City.

16. Representation Regarding Ethical Standards for City Officers and Employees and Former City Officers and Employees. The Company represents that it has not (1) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

17. Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of the City and the Company. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

18. Force Majeure. The Company shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control, but the Company shall not be relieved of any of its obligations to comply promptly with any provision of this Franchise contract by reason of any failure of the City to enforce prompt compliance. Nothing herein shall be construed as to imply that either Party waives any right, payment, or performance based on future legislation where said legislation impairs this contract in violation of the United States or Utah Constitutions.

19. Governing Law and Venue. This Agreement and any action related to this Agreement will be governed by the laws of the State of Utah. Venue for any action brought pursuant to this Agreement will be in the United States District Court for the District of Utah in Salt Lake City.

20. Authority. Each individual executing this Agreement on behalf of the City and Company represents and warrant that such individual is duly authorized to execute and deliver this Agreement on behalf of the City or Company (as applicable).

[Signatures begin on following page.]

WITNESS WHEREOF, this Franchise Agreement is executed in duplicate originals as of the day and year first above written.

SALT LAKE CITY CORPORATION, a Utah municipal corporation

_____
Jacqueline M. Biskupski, Mayor

Date: _____

Attest and Countersign:

_____
City Recorder

Date of Recordation: _____

Approved As To Form:

_____
Kimberly K. Chytraus
Senior City Attorney

CenturyLink Communications, LLC

By _____
Name: _____
Title: _____

Date: _____

State of _____)
:ss
County of _____)

On the ___ day of _____, 2018, personally appeared before me _____, who, being by me duly sworn did say that he/she is the _____ of CenturyLink Communications, LLC, and that the foregoing instrument was signed on behalf of said company and said person acknowledged to me that he/she is authorized to execute such instrument on behalf of said company.

_____

NOTARY PUBLIC, residing in _____ County,

My Commission Expires:

_____

SALT LAKE CITY ORDINANCE
No. __ of 2018
(Granting a Telecommunication Franchise to
Qwest Corporation d/b/a CenturyLink QC)

WHEREAS, Qwest Corporation d/b/a CenturyLink QC (the "Company") desires to provide certain telecommunication services within Salt Lake City, Utah (the "City"), and in connection therewith to establish a network in, under, along, over, and across present and future streets, alleys and rights-of-way of the City, consisting of telecommunication lines and cables, together with all necessary and desirable appurtenances; and

WHEREAS, the City, in the exercise of its police power, ownership, use or rights over and in the public rights-of-way, and pursuant to its other regulatory authority, believes it is in the best interest of the public to provide to the Company, and its successors, a non-exclusive franchise to operate its business within the City; and

WHEREAS, the City and the Company propose to enter into a Franchise Agreement, the substantially final form of which has been presented to the City Council at the meeting at which this Ordinance is being considered for adoption; and

WHEREAS, the City desires to approve the execution and delivery of such Franchise Agreement and to otherwise take all actions necessary to grant the referenced Franchise to the Company; and

WHEREAS, the City believes this Ordinance to be in the best interest of the citizens of the City,

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. Purpose. The purpose of this Franchise Ordinance is to grant to the Company, and its successors and assigns, a non-exclusive right to use the present and future streets, alleys, viaducts, bridges, roads, lanes and public way within and under control of the City for its business purposes, under the constraints and for the compensation enumerated in the Franchise Agreement attached hereto as Exhibit A, and by this reference incorporated herein, as if fully set forth herein (the "Franchise Agreement").

SECTION 2. Short Title. This Ordinance shall constitute the Qwest Corporation d/b/a CenturyLink QC Telecommunications Franchise Ordinance.

SECTION 3. Grant of Franchise. There is hereby granted to the Company, and its successors and assigns, in accordance with the terms and conditions of the Franchise Agreement, the right, privilege, and franchise (collectively, the "Franchise"), to construct, maintain and operate in, under, along, over and across the present and future streets, alleys, and rights-of-way and other property of the City, all as more particularly described in the Franchise Agreement.

SECTION 4. Term. The term of the Franchise is for a ten (10) year period from and after the recordation of the executed Franchise Agreement with the Salt Lake City Recorder's Office, with a year to year automatic extension that can be terminated on at least 90 days' written notice before the end of the existing term.

The Company shall pay all costs of publishing this Ordinance.

SECTION 5. Acceptance by Company. Within thirty (30) days after the effective date of this Ordinance, the Company shall execute the Franchise Agreement and

return it to the City, otherwise, this Ordinance and the rights granted hereunder shall be null and void.

SECTION 6. No Franchise revocation or termination may be effected until the City Council shall first adopt an ordinance terminating the Franchise and setting forth the reasons therefor, following not less than thirty (30) days prior written notice to the Company of the proposed date of the ordinance adoption. The Company shall have an opportunity on said ordinance adoption date to be heard upon the proposed termination.

SECTION 7. This Ordinance shall take effect immediately upon publication.

[Signatures on Following Page.]

Passed by the City Council of Salt Lake City, Utah, this ____ day of _____, 2018.

_____
CHAIRPERSON

ATTEST:

_____
CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____Approved. _____Vetoed.

_____
MAYOR

ATTEST:

_____
CHIEF DEPUTY CITY RECORDER

(SEAL)

Salt Lake City Attorney's Office
Approved As To Form
By: _____
Kimberly Chytraus
Date: October 11, 2018

Bill No. _____ of 2018.
Published: _____.
HB_ATTY-#73451-v1-ORD_Franchise_Agreement_Qwest_CenturyLink

EXHIBIT “A”

FRANCHISE AGREEMENT

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (this "**Agreement**"), dated as of the Effective Date (defined below), by and between SALT LAKE CITY CORPORATION, a Utah municipal corporation (the "**City**"), and Qwest Corporation d/b/a CenturyLink QC (the "**Company**").

RECITALS

A. The Company desires a non-exclusive franchise to provide telecommunications, Internet and other related services to residents, businesses, and other customers within the boundaries of Salt Lake City, Utah, and to utilize public rights-of-way controlled by the City for such purpose.

B. The City considers it to be in the best interests of the City, and in furtherance of the health, safety, and welfare of the public, to grant such franchise to the Company, and in connection therewith desires to authorize the use of public rights-of-way controlled by the City in accordance with the provisions of this Agreement, and all applicable City ordinances and state and federal law, including, without limitation, the Federal Telecommunications Act of 1996 (the "**Telecommunications Act**").

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration and, further, in contemplation of subsequent approval by legislative action of the City Council as hereinafter provided, the parties mutually agree as follows.

ARTICLE I
FRANCHISE ORDINANCE

1.1 Ordinance. The City Council has adopted a franchise ordinance entitled Qwest Corporation d/b/a CenturyLink QC Telecommunications Franchise Ordinance (the "**Ordinance**"), approving the execution of this Agreement. Execution of this Agreement constitutes the unqualified acceptance of the Ordinance by the Company. Such Ordinance is incorporated herein by reference, and made an integral part of this Agreement.

1.2 Franchise Description. The Ordinance confers upon the Company, and its successors and assigns, the right, privilege, and franchise (the "**Franchise**"), to construct, maintain and operate in, under, along, over, across, and through portions of the Right-of-Way (as defined in Section 3.1 hereof), facilities consisting of telecommunication lines and cables (including, without limitation, fiber-optic and copper lines and cables), together with all necessary and desirable appurtenances (including without limitation underground and above ground conduits and structures, poles, towers, wire and cable) (collectively the "**Company Facilities**"). Upon the annexation of any territory to the City, all rights hereby granted, and the Franchise, shall automatically extend to the territory so annexed, to the extent the City has authority to so extend the Franchise. All facilities owned, maintained, or operated by the Company located within, under, or over public rights-of-way of the territory so annexed shall thereafter be subject to all terms hereof. The Company Facilities may be used by the Company (and others, as provided herein),

for the purpose of providing any of the services contemplated to be provided by telecommunications providers under the Telecommunications Act, and involving any switched or other one-way or two-way transmission of voice or data, including but not necessarily limited to (i) services interconnecting interexchange carriers for the purpose of any transmission of voice or data; (ii) services connecting interexchange carriers or competitive access carriers to local exchange providers for the purpose of any transmission of voice or data; (iii) services connecting interexchange carriers to any entity, other than another interexchange carrier or the local exchange provider for the purpose of any transmission of voice or data; (iv) services providing private line point-to-point service for end users for the purpose of any transmission of voice or data; (v) video, video conferencing or point-to-point private line service, or (vi) any service regulated by state regulatory agencies or the Federal Communications Commission which the state of Utah or Federal Communications Commission has authorized the Company to provide.

Anything in this Agreement to the contrary notwithstanding, the Company may not use the Company Facilities to provide, to any customer within the City, cable television services as defined in the federal Cable Communication Policy Act of 1984, as amended, without a separate franchise therefor.

1.3 Term. The term of the Franchise is ten (10) years commencing on the date both parties have signed this Agreement (with the City's signature evidenced by recordation with the Salt Lake City Recorder) (the "**Effective Date**"), and then from year-to-year until a party gives the other party at least ninety (90) days' notice in writing and in advance of expiration of the initial term or any subsequent term stating an intent to terminate the Agreement at the end of such existing term.

ARTICLE II
FRANCHISE FEE; ADMINISTRATION FEE

2.1 Franchise Fee. (a) For and in consideration of the Franchise, and as fair and reasonable compensation to the City for the use by the Company of the City's Right-of-Way, the Company will pay to the State of Utah for the benefit of the City an annual franchise fee (the "**Franchise Fee**"), in an amount equal to, and consisting of, the municipal telecommunications license tax (the "**Municipal Telecommunications Tax**") authorized pursuant to the Utah Municipal Telecommunications License Tax Act, Title 10, Chapter 1, Part 4, Utah Code Annotated 1953, as amended (the "**Municipal Telecommunications Tax Act**"). Such Franchise Fee shall be calculated in the manner provided in the Municipal Telecommunications Tax Act, and shall be paid by the Company to the Utah State Tax Commission, as agent for the City under an Interlocal Cooperation Agreement by and among the City, the Utah State Tax Commission, and others, at the times and in the manner prescribed in the Municipal Telecommunications Tax Act, and any rules and regulations promulgated thereunder. Compliance by the Company with the terms and provisions of the Municipal Telecommunications Tax Act, and any rules and regulations promulgated thereunder, shall satisfy all requirements of this Agreement with respect to the calculation and payment of the Franchise Fee.

(b) Notwithstanding the provisions of Section 2.1(a) above, the Franchise Fee shall be calculated and payable as described therein only so long as the Company and the services provided within the City by the Company by means of the Company Facilities are subject to the Municipal

Telecommunications Tax. This franchise does not contemplate or permit Company to provide cable television service and to the extent all or any portion of the Company Facilities is used to provide cable television service, Company shall acquire a separate franchise for same. In the event all or any portion of the Company Facilities ceases to be used by the Company to provide services subject to the Municipal Telecommunications Tax, the Company shall pay, in lieu of the Franchise Fee, a charge with respect to such portion of the Company Facilities, which shall be calculated as 3.5% of "gross revenue" (as defined in Utah Code Section 10-1-402). Such fee shall be paid annually, payable from and after (i) the date Company ceases to provide such services, or (ii) the date the Municipal Telecommunications Tax ceases to apply to the services provided by the Company. If at any time the Municipal Telecommunications Act is changed in such a way as to affect this Franchise in any way, the City and the Company agree to negotiate in good faith within sixty (60) days any amendments to this Agreement as shall be necessary to accommodate such changes, including payment provisions; provided such new or changed provisions shall conform substantially with the provisions contained in any permits held by other similarly situated companies.

2.2 Report of Franchise Fee Payment. Upon the written request of the City, the Company shall prepare and deliver to the City, an annual report summarizing Company payments to the Utah State Tax Commission for the requested period. Such report shall include such information related to such payment as the City shall reasonably request, including by way of example, and not limitation, the gross receipts of the Company from telecommunications service that are attributed to the City during such period, and the methodology for calculating such gross receipts.

2.3 Record Inspection. The records of the Company pertaining to the annual reports and payment required in this Agreement, including but not limited to any records deemed necessary or useful by the City to calculate or confirm gross receipts, and all other records of the Company reasonably required by the City to assure compliance by the Company with the terms of this Agreement ("Company Confidential Information"), shall be open to inspection by the City and its duly authorized representatives upon reasonable notice at all reasonable business hours of the Company. The Company may require such inspection to be performed at any Company Facilities where such Company Confidential Information may be located; provided that in the event such Company Confidential Information is not located at Company Facilities within the City, such Company Confidential Information shall be delivered by the Company for inspection by the City at the address of the City set forth in Section 13.1 hereof. City will hold in strict confidence and will keep confidential all Company Confidential Information. City will use reasonable care to avoid publication or dissemination of such Company Confidential Information. City will not disclose Company Confidential Information to any third person. Notwithstanding the previous sentence, City may disclose Company Confidential Information to its employees, officers, directors, consultants, advisors and agents (collectively, "Representatives") to the extent reasonably necessary to carry out the inspection; provided, however, that such Representatives are informed of the confidential nature of the Company Confidential Information, and are bound by confidentiality obligations no less stringent than those set forth herein. Notwithstanding the forgoing, Company acknowledges that City is subject to the requirements of GRAMA as provided for in Paragraph 15.7 below. Company specifically waives any claims against City related to

disclosure of any materials as required by GRAMA.

2.4 Service of Process. The Company agrees to use its best efforts to provide a local office within the State of Utah for purposes of acceptance of process. Otherwise, the Company agrees to advise City of a person or office where such process may be served.

2.5 Administrative Fee. In addition to the annual Franchise Fee described above, the Company shall pay to the City, upon execution and delivery hereof, a one-time administrative fee of $5,000, which shall compensate the City for (but which does not exceed), the direct costs and expenses incurred by the City in preparing, considering, approving, executing and implementing the Ordinance and this Agreement.

ARTICLE III
COMPANY USE OF RIGHT-OF-WAY

3.1 Franchise Rights to Use Right-of-Way. (a) The Company shall have the right to excavate in, and use any present and future City-owned or controlled street, alley, viaduct, bridge, road, lane and public way within the City, including the surface, subsurface and airspace (collectively the "**Right-of-Way**"), subject to the terms and conditions of this Agreement and in locations where Company obtains appropriate permits. In addition, the Company shall have the right to utilize any easement across private property granted to the City for utility purposes, provided (i) the prior written consent of the director of the City department which controls such easement is obtained in each case, and (ii) the documents granting such easement to the City authorize such use. In all cases, the precise location of the Company Facilities within, on, over, under, across or through the Right-of-Way shall be subject to City's reasonable and lawful approval, and the right to use such Rights-of-Way shall be subject to the terms of this Agreement, and all applicable federal, state, and City laws, ordinances, rules, and regulations now existing or from time to time adopted or promulgated.

(b) The rights granted to the Company herein do not include the right to (i) excavate in, occupy or use any City park, recreational areas or other property owned by the City, or (ii) attach or locate any of the Company Facilities to or on, or otherwise utilize any of, any City-owned property or facilities or structures, including without limitation light poles, towers, buildings and trees. The use of such City-owned property or facilities by the Company shall be considered by the City on a case-by-case basis, and shall be subject to payment of additional compensation to the City. Similarly, the rights granted herein by the City to the Company do not include the right to situate any Company Facilities on poles or other property owned by entities other than the City and situated in the City's Right-of-Way. It shall be the responsibility of the Company to negotiate any pole-attachment agreements or similar agreements with the owners of such poles or facilities, and to pay to such owners any required compensation.

3.2 Duty to Relocate. (a) Whenever the City shall require the relocation or reinstallation of any of the Company Facilities situated within the Right-of-Way, it shall be the obligation of the Company, upon notice of such requirement and written demand made of the Company, and within a reasonable time thereof, but not less than sixty (60) days from the date of

notice, to commence to remove and relocate or reinstall such Company Facilities as may be reasonably necessary to meet the requirements of the City, which relocation shall be completed within a reasonably practicable time thereafter, but in no event longer than one hundred twenty (120) days, unless extended by mutual agreement. In exigent circumstances, Company will work with City to cause such relocation to be completed as quickly as possible. Such relocation may be required by the City for any lawful purpose, including, without limitation, the resolution of existing or anticipated conflicts or the accommodation of any conflicting uses or proposed uses of the Right-of-Way, whether such conflicts arise in connection with a City project or a project undertaken by some other person or entity, public or private. The City will cooperate with the Company to provide alternate space where available, within the Right-of-Way, at no additional cost to the Company.

(b) Such relocations, as described above in subsection (a), shall be accomplished by the Company at no cost or expense to the City. In the event the relocation is ordered for other purposes, including but not limited to projects undertaken in whole or in part to accommodate the facilities, development or other project of an entity other than the City or the Company, the cost and expense of such relocation shall be borne by such other entity. Any money and all rights to reimbursement from the State of Utah or the federal government to which the Company may be entitled for work done by the Company pursuant to this paragraph, shall be the property of the Company. City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

3.3 City Duty to Obtain Approval to Move Company Property; Emergency Exception. Except as otherwise provided herein, the City shall not, without the prior written approval of the Company, intentionally alter, remove, relocate or otherwise interfere with any portion of the Company Facilities. However, if it becomes necessary, in the judgment of the City Representative (as defined in Section 6.1 hereof), to cut or move any of the Company Facilities because of a fire, flood, emergency, earthquake disaster or other imminent threat thereof, or to relocate any portion of the Company Facilities upon the Company's failure to do so following a request by the City under Section 3.2 hereof, these acts may be done without prior written approval of the Company and the repairs thereby rendered necessary shall be made by the Company, without charge to the City. Any written approval required shall be reviewed and processed by the Company within seven calendar days and approval shall not be unreasonably withheld, conditioned, or delayed.

3.4 Annual Information Coordination. Upon reasonable request, and no more than once per year, the Company and City shall meet for the purpose of exchanging information and documents regarding known or anticipated construction and other similar work within the City, with a view toward coordinating their respective activities in those areas where such coordination may prove mutually beneficial.

3.5 Common Use of Facilities. (a) In order to minimize the adverse impact to the Right-of-Way and to City facilities, and inconvenience to the public, caused by construction, repair and maintenance activities multiple utility franchisees, it is the policy of the City to encourage the shared use of telecommunication facilities by City franchisees and permittees whenever

practicable.

(b) Except when necessary to service a subscriber, and subject to the written approval and conditions of the City, the Company will endeavor to, prior to constructing any Company Facilities, fully utilize any excess capacity reasonably and cost-effectively available on any existing poles or within any existing conduit, under such terms and agreements as the Company negotiates with the owners of such poles or conduits. The City shall cooperate with the Company in negotiating and obtaining permission to use such facilities.

(c) Intentionally deleted.

(d) No Company Facilities shall be installed or the installation thereof commenced on any existing pole within the Right-of-Way until the proposed location, specifications and manner of installation thereof are set forth upon a plot or map showing the existing poles, where such installations are proposed. The plot or map shall be submitted for approval to the City Representative.

(e) If the Company is required to locate Company Facilities within the Right-of-Way other than Company Facilities which may be attached to utility poles, the nature of such Company Facilities shall be disclosed to the City Representative for approval as to the need thereof and as to the location within the Right-of-Way. The installation shall be made under such reasonable and lawful conditions as the City Representative shall prescribe.

(f) The Company may trim at its own expense any trees or other vegetation overhanging the Right-of-Way of the City to prevent interference with Company Facilities. All trimming on City property shall be done with the approval of and under the direction of the City's Urban Forester and at the expense of the Company.

(g) The Company shall, at the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of such building. The expense of such temporary removal or raising or lowering of the wires shall be paid by the person requesting the same and the Company shall have the authority to require such payment in advance. The City agrees to cause prior written notice of the necessity to move wires to be given as far in advance as possible, provided that in no event shall less than thirty (30) days' advance notice be given.

3.6 Duty to Underground. (a) The Company shall be required to comply with the rules and regulations of the Public Service Commission in regard to the installation of underground lines. In addition, the Company shall comply with rules and regulations adopted by the City for the placement of newly constructed network lines underground; provided, however, Company shall only be required to place newly constructed network lines underground to the extent that underground placement is also required of all other existing and newly constructed lines of other telecommunication companies at that location with the City at Company's cost. Undergrounding may be required by the City for any lawful purpose, including, without limitation, the resolution of existing or anticipated conflicts or the accommodation of any conflicting uses or proposed uses of the Right-of-Way, whether such conflicts arise in connection with a City project or a project

undertaken by some other person or entity, public or private. If all other electric utilities or telephone utilities are located or relocated underground in any place within the City after the Company has installed its facilities the Company shall thereafter remove and relocate its facilities underground in such places and within a timeframe agreed to by the parties. Where utilities are underground, the Company may locate certain equipment above ground upon a showing of necessity and with the written approval from the City.

(b) City will cooperate with the Company to provide alternate space where available, within the Right-of-Way, at no additional cost to the Company. Undergrounding, as described above in subsection (a), shall be accomplished by the Company at no cost or expense to the City. In the event the undergrounding is ordered for other purposes, including but not limited to projects undertaken in whole or in part to accommodate the facilities, development or other project of an entity other than the City or the Company, the cost and expense of such undergrounding shall be borne by such other entity. Any money and all rights to reimbursement from the State of Utah or the federal government to which the Company may be entitled for work done by the Company pursuant to this paragraph, shall be the property of the Company. City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

3.7 Company Duty to Comply With Rules and Regulations. Company Facilities located on, upon, over or under the Right-of-Way shall be constructed, installed, maintained, cleared of vegetation, renovated or replaced in accordance with such lawful rules and regulations as the City may issue. The Company shall acquire, and any fees with respect to, such permits as may be required by such rules and regulations, and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance.

3.8 Intentionally deleted.

3.9 Compliance with Applicable Law. All Company Facilities installed or used under color of this Agreement shall be used, constructed and maintained in accordance with applicable federal, state and City laws and regulations, including without limitation environmental laws; provided that this provision shall not be construed to require the Company to modify or retrofit any existing facilities to meet new code standards unless otherwise required by law. Nothing in this Agreement shall constitute a waiver of either party's right to challenge any portion of this Agreement which is not in accordance with applicable federal, state and local laws.

3.10 Location to Minimize Interference. All Company Facilities shall be reasonably located so as to cause minimum interference with the use of the Right-of-Way by others, and so as to cause minimum interference with the rights of the owners of property which abuts any portion of the Right-of-Way.

3.11 Repair Damage. If during the course of work on Company Facilities, the Company causes damage to or alters any portion of the Right-of-Way, or any City facilities or other public property or facilities, the Company shall (at its own cost and expense and in a manner approved by the City Representative), replace and restore such portion of the Right-of-Way or any City

facilities or other public or private property or facilities, in accordance with applicable City ordinances, policies and regulations relating to repair work of similar character.

3.12 Guarantee of Repairs. For a period of three years following the completion of any work in the Right-of-Way or any repair work performed pursuant to Section 3.11, and excluding damage caused by City or other third party, the Company shall maintain, repair, and keep in good condition those portions of the Right-of-Way or property or facilities restored, repaired or replaced by or on behalf of the Company, to the reasonable satisfaction of the City Engineer.

3.13 Safety Standards. The Company's work, while in progress, shall be properly protected at all times with suitable barricades, flags, lights, flares, or other devices in accordance with applicable safety regulations or standards imposed by law.

3.14 Condition of Company Facilities. The Company shall maintain the general appearance of Company Facilities in a good and workmanlike manner consistent with best industry practice.

3.15 Inspection by the City. The Company Facilities shall be subject to inspection by the City to the extent reasonably necessary to assure compliance by the Company with the terms of this Agreement. The City shall inspect Company Facilities at reasonable times and upon reasonable notice to the Company; provided, however, the inspection shall not interrupt or interfere with any services provided by the Company.

3.16 Company's Duty to Remove Company Facilities from the Right-of-Way.

(a) Subject to subsection (c) below, the Company shall promptly remove from the Right-of-Way all or any part of the Company Facilities, when one or more of the following conditions occur:

(i) The Company ceases to operate such Company Facilities for a continuous period of twelve (12) months, and does not begin operating such Company Facilities as provided below within thirty (30) days after receiving notice following any such cessation from the City, except when the cessation of service is a direct result of a natural or man-made disaster;

(ii) The failure to cure construction or installation of such Company Facilities that do not meet the requirements of this Agreement following notice by City described below; or

(iii) The Franchise is terminated or revoked pursuant to notice as provided herein; provided, however, that the Company need not remove its network if the City continues to receive payments from the state related hereto, and the parties are in discussion of a renewal or replacement franchise or similar agreement.

(b) Upon receipt by the Company of written notice from the City setting forth one or more of the occurrences specified in subsection (a) above, the Company shall have ninety (90) days from the date upon which said notice is received to remove such Company Facilities, or, in the case of subsection (a), to begin operating the Company Facilities.

(c) The Company may abandon any underground Company Facilities in place, subject to the reasonable requirements of the City, and with the prior written consent of the City, which may be granted or withheld in the City's sole and absolute discretion. In such an event, the abandoned system shall become the property of the City and the Company shall have no further responsibilities or obligations concerning those facilities. The City shall not use the possibility of obtaining ownership of the abandoned system as a rationale for terminating or revoking this Agreement.

3.17 Operational Reports. During the period of construction of any Company Facilities, the Company shall furnish the City with written progress reports as required pursuant to the terms of any permit to work in the public way.

3.18 Removal of Facilities Upon Request. Company shall comply with the regulations of the Utah Public Service Commission regarding removal of the Company Facilities.

ARTICLE IV
CITY USE RIGHTS

4.1 City Use of Poles and Overhead Structures. The City shall have the right to enter into a contract with the Company to license for a fee poles and conduit owned by the Company within the City for fire alarms, police signal systems, or any other lawful use; provided, however, any said uses by the City shall be for activities owned, operated or exclusively used by the City for any public purposes and shall not include the provision of telecommunication, communication, or Internet services to third parties.

4.2 Use of Trenches. Whenever the Company proposes to install new underground conduits or replace existing underground conduits within or under the Right-of-Way, it shall notify the City Representative as soon as practical and shall allow the City, at its own expense, and without charge to the Company, to use any such trench opened by the Company to lay the City's facilities therein; provided, (i) that such action will not materially interfere with Company Facilities or delay or otherwise complicate the accomplishment of the Company's project; (ii) any said uses by the City shall be for activities owned, operated or exclusively used by the City for any public purposes and shall not include the provision of telecommunication, communication, or Internet services to third parties; and (iii) that the Company may require the City to agree to reasonable terms and conditions of such use.

4.3 Use of Company Corridors. The City may identify corridors which the Company now or in the future owns in fee within the City and which are similar in nature to transmission corridors of electric utility companies. The City may identify portions of such corridors, if any, as being desirable locations for public parks, playgrounds or recreation areas. In such event, and upon notice by the City, the Company shall discuss with the City in good faith whether an agreement providing for such uses by the City can be reached; provided that such use shall be within the sole discretion of Company The Company shall assume no liability nor shall it incur, directly or indirectly any additional expense in connection therewith.

4.4 Limitation on Use Rights. Nothing in this Article 4 shall be construed to require

the Company to increase pole capacity or trench size, alter the manner in which the Company attaches equipment to the poles or installs facilities, or alter the manner in which it operates and maintains its equipment.

ARTICLE V
POLICE POWER

The City expressly reserves, and the Company expressly recognizes, the City's right and duty to adopt, from time to time, in addition to the provisions herein contained, such ordinances, rules and regulations as the City may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its residents and their properties. This Agreement is subordinate to City's exercise of its police power.

ARTICLE VI
CITY REPRESENTATIVE

6.1 City Representative. Except as provided hereinafter, the City Engineer, or his/her designee, or such other person as the Mayor may designate from time to time (which designation shall be communicated to the Company in writing), is hereby designated the official of the City having full power and authority, along with a representative of the City Attorney's Office, to take appropriate action for and on behalf of the City and its inhabitants to enforce the provisions of this Agreement and to investigate any alleged violations or failures of the Company to comply with said provisions or to adequately and fully discharge its responsibilities and obligations hereunder. The City Engineer or such other designee is referred to herein as the City Representative. The failure or omission of the City Representative to so act shall not constitute a waiver or estoppel. The City Representative shall be the Company's initial point of contact with the City. Unless specifically provided otherwise, all decisions, consents or approvals required of the "City" shall be made or given by the City through the City Representative. The City Representative shall coordinate with other City officials, personnel and departments in all matters relating to this Agreement.

6.2 Company Duty to Cooperate. In order to facilitate such duties of the City Representative, the Company agrees:

(a) To allow the City Representative to inspect at a reasonable time and without interference to Company operations the Company Facilities in accordance with Section 3.15.

(b) That the City Representative may convey to the Company, and, with notice to the Company in accordance with this Agreement, to the Federal Communications Commission, the Utah Public Service Commission and any other regulatory agency having jurisdiction, any complaint of any customer of the Company within the City with respect to the quality and price of telecommunication services and the appropriate standards thereof; provided, however, that City Representative's failure to provide any such notice to the Company shall not constitute a breach of this Agreement.

ARTICLE VII
Intentionally Deleted.

ARTICLE VIII
CONTINUATION OF SERVICE

In the event the Company is or becomes the exclusive local exchange carrier providing basic telephone exchange services within the City, the removal of Company Facilities, and the discontinuation of telecommunication services by the Company within the City, shall be subject to applicable regulations and procedures of the Public Service Commission, or any successor regulatory body.

ARTICLE IX
TRANSFER OF FRANCHISE

(a) The Company shall not sell, transfer, lease, assign, sublet or otherwise make available to any person or entity other than the Company, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the Franchise or any rights or privileges under this Agreement (each, a "Transfer"), to Proposed Transferee, without the prior written consent of the City, such consent will not be unreasonably withheld. The following events (by way of illustration and not limitation) shall be deemed to be a Transfer of the Franchise requiring compliance with this Article: (i) the sale, assignment or other transfer of all or a majority of the Company's assets to another Person; (ii) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in the Company by one or more of its existing shareholders, partners, members or other equity owners, so as to create a new Controlling Interest in the Company; (iii) the issuance of additional capital stock or partnership, membership or other equity interest by the Company so as to create a new Controlling Interest in the Company; or (iv) the entry by the Company into an agreement with respect to the management or operation of the Company or its facilities (including the Company Facilities).

(b) The consent required shall be given or denied by the City not later than one-hundred twenty (120) days following receipt by the City of a written request for consent, and shall not be unreasonably withheld. For the purpose of determining whether it shall grant its consent, the City may inquire into the qualifications of the Proposed Transferee, and the Company shall assist the City in the inquiry. City may condition or deny its consent based on any or a combination of the following or similar criteria. The Proposed Transferee shall indicate by affidavit whether it:

(i) has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(ii) has ever had a judgment entered against it in an action for fraud, deceit, or misrepresentation by any court of competent jurisdiction;

(iii) has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a system similar to the Company Facilities, except that any

such claims, suits or proceedings relating to insurance claims, theft or service, or employment matters need not be disclosed;

(iv) is financially solvent, by submitting financial data, including financial statements, that have been audited by a certified public accountant, along with any other data that the City may reasonably require;

(v) has the financial and technical capability to enable it to maintain and operate the Company Facilities for the remaining term of this Agreement; and

(vi) the use of the Company Facilities and Right-of-Way by the Proposed Transferee are consistent with the uses by the Company permitted under this Agreement.

The Company shall provide to the City information regarding any failure by the Company to comply with any provision of this Agreement or of any applicable customer or consumer service standards promulgated or in effect in the City's jurisdiction at any point during the term of this Agreement.

(c) Notwithstanding the foregoing, the City's consent shall not be required in connection with, and Company shall provide prompt written notice to City of, the following circumstances:

(i) The intracorporate transfer from one wholly-owned subsidiary to another wholly-owned subsidiary of a parent corporation;

(ii) Any transfer in trust, a mortgage, or other instrument of hypothecation of the assets of the Company, in whole or in part, to secure an indebtedness, provided that such pledge of the assets of the Company shall not impair or mitigate the Company's responsibility and capability to meet all its obligations under this Agreement;

(iii) Any sale or other transfer by the Company of equipment or property;

(iv) Interconnection, license, pole attachment or other agreements pursuant to which the Company Facilities may be used by another entity operating within the City (provided, however, that Company acknowledges that such other entity shall be required to obtain any relevant permits from the City); or

(v) Company's acquisition of another entity when the use of the Right-of-Way by the acquired entity is consistent with the use permitted under this Agreement.

(d) Transfer by the Company shall not constitute a waiver or release of any rights of the City in or to its Right-of-Way and any transfer shall by its own terms be expressly subject to the terms and conditions of this Agreement.

(e) A sale, transfer or assignment of this Agreement will only be effective upon the Proposed Transferee becoming a signatory to this Agreement by executing an unconditional acceptance of this Agreement.

(f) For purposes of this Article IX, the following terms shall have the following meanings:

(i) "Control" or "Controlling Interest" means actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the Company Facilities or of the Company. A rebuttable presumption of the existence of Control or a Controlling Interest shall arise from the beneficial ownership, directly, by any person, or group of persons or entities acting in concert, of more than fifty percent (50%) of the Company. "Control" or "Controlling Interest" as used herein may be held simultaneously by more than one Person.

(ii) "Person" means any individual, sole proprietorship, partnership, association or corporation, or any other form of organization, and includes any natural person.

(iii) "Proposed Transferee" means a proposed purchaser, transferee, lessee, assignee or person acquiring ownership or control of the Company.

ARTICLE X
EARLY TERMINATION OR REVOCATION OF FRANCHISE

10.1 Grounds for Termination. The City may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:

(a) The Company fails to make timely payments of the Franchise Fee as required under Article II of this Agreement, or any other fee due to the City under the terms of this Agreement, and does not correct such failure within forty-five (45) business days after receipt of written notice by the City of such failure.

(b) The Company, by act or omission, violates a material term or condition herein set forth within the Company's control, and with respect to which redress is not otherwise herein provided. In such event, the City, acting by or through its City Council, may after public hearing, determine that such failure is of a material nature and thereupon, after written notice given to the Company of such determination, the Company shall, within thirty (30) days of such notice, commence efforts to remedy the conditions identified in the notice, and shall have six (6) months from the date it receives notice to remedy the conditions. After the expiration of such six (6) month period and upon failure by the Company to correct such conditions, the City may declare the Franchise forfeited and this Agreement terminated, and thereupon the Company shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further that in the event such failure is of such nature that it cannot be reasonably corrected within the six (6) month period above, the City shall provide additional time for the reasonable correction of such alleged failure if the Company (i) commences corrective action during such six (6) month period,

and (ii) diligently pursues such corrective action to completion.

(c) The Company becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its facilities are sold under an instrument to secure a debt and is not redeemed by the Company within sixty (60) days.

(d) In furtherance of the Company policy or through acts or omissions done within the scope and course of employment, a member of the Board of Directors or an officer of the Company knowingly: (i) engages in conduct or (ii) makes a material misrepresentation with or to the City, that is fraudulent or in violation of a felony criminal statute of the State of Utah.

(e) Company abandons use of all Company Facilities for 12 consecutive months.

10.2 Reserved Rights. Nothing contained herein shall be deemed to preclude the Company from pursuing any legal or equitable rights or remedies it may have to challenge the action of the City.

ARTICLE XI
COMPANY INDEMNIFICATION; INSURANCE

11.1 No City Liability. The City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death of, any person that may occur in the construction, operation or maintenance by the Company of the Company Facilities; provided, however, that the City will be liable only for its own conduct, subject to and without waiving any defenses, including limitation of damages, provided for in the Utah Governmental Immunity Act (Utah Code §§ 63G-7-101 *et seq.*) or successor provision. Company agrees that the Rights-of-Way are delivered in an "AS IS, WHERE IS" condition and City makes no representation or warranty regarding their condition, and disclaims all express and implied warranties.

11.2 Company Indemnification of City. The Company shall indemnify, defend and hold the City, its officers and employees, harmless from and against all losses, claims, counterclaims, demands, actions, damages, costs, charges, liens and all liability or damage of whatsoever kind on account of or arising from the exercise by the Company of its rights hereunder, and shall pay the reasonable costs of defense, including reasonable attorneys' fees. Said indemnification shall include but not be limited to the Company's intentional or negligent acts or omissions pursuant to its use of the rights and privileges of this Agreement, including construction, operation and maintenance of the Company Facilities whether or not any such use, act or omission complained of is authorized, allowed or prohibited by this Agreement. The Company's duty to defend the City shall exist regardless of whether the City or the Company may ultimately be found to be liable for third party negligence or other conduct. In the event that City's tender of defense is rejected by Company or Company's insurer, and Company is later found by a court of competent jurisdiction to have been required to indemnify City, then in addition to any other remedies City may have, Company agrees to pay the City's reasonable costs, expenses and attorney's fees in proving such liability, defending itself and enforcing this indemnity provision to the extent required by section 11.3 below.

11.3 Notice of Indemnification. The City shall (a) give prompt written notice to the Company of any claim, demand or lien with respect to which the City seeks indemnification hereunder and (b) unless in the City's judgment a conflict of interest may exist between the City and the Company with respect to such claim, demand or lien, permit the Company to assume the defense of such claim, demand, or lien with counsel satisfactory to City. If such defense is not assumed by the Company, the Company shall not be subject to any liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, the Company shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any breach by the City of any obligation under this Agreement or any negligent act or failure to act of the City or any of its officers or employees or agents.

11.4 Insurance.

(a) The Company, at its own cost and expense, shall secure and maintain, and shall ensure that any subcontractor to the Company shall secure and maintain, during the term of this Agreement the following policies of insurance:

(i) Commercial General Liability Insurance. Commercial general liability insurance with the City as an additional insured on a primary and non-contributing bases in comparison to all other insurance including City's own policy or policies of insurance, in the minimum amount of $2,000,000 per occurrence with a $3,000,000 general aggregate and $3,000,000 products completed operations aggregate. These limits can be covered either under a CGL insurance policy alone, or a combination of a CGL insurance policy and an umbrella insurance policy and/or a CGL insurance policy and an excess insurance policy. The policy shall protect the City, Company, and any subcontractors from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from the Company's operations under this Agreement, whether performed by Company itself, any subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, products, and completed operations.

(ii) Commercial Automobile Liability Insurance. Commercial automobile liability insurance that provides coverage for owned, hired, and non-owned automobiles, used in connection with this Agreement in the minimum amount of with a combined single limit of $2,000,000 per occurrence. These limits can be covered either under a commercial automobile liability insurance policy alone, or a combination of a commercial automobile liability insurance policy and an umbrella insurance policy and/or a commercial automobile liability insurance policy and an excess insurance policy. If the policy only covers certain vehicles or types of vehicles, such as scheduled autos or only hired and non-owned autos, Company shall only use those vehicles that are covered by its policy in connection with any work performed under this Agreement.

(iii) Workers' Compensation and Employer's Liability. Worker's compensation and employer's liability insurance sufficient to cover all of the Company's employees

pursuant to Utah law, unless a waiver of coverage is allowed and acquired pursuant to Utah law. In the event any work is subcontracted, the Company shall require its subcontractor(s) similarly to provide worker's compensation insurance for all of the latter's employees, unless a waiver of coverage is allowed and acquired pursuant to Utah law.

(b) General Insurance Requirements.

(i) Any insurance coverage required herein that is written on a "claims made" form rather than on an "occurrence" form shall (A) provide full prior acts coverage or have a retroactive date effective before the date of this Agreement, and (B) be maintained for a period of at least three (3) years following the end of the term of this Agreement or contain a comparable "extended discovery" clause. Evidence of current extended discovery coverage and the purchase options available upon policy termination shall be provided to the City.

(ii) All policies of insurance shall be issued by insurance companies authorized to do business in the state of Utah and either:

(A) Currently rated A- or better by A.M. Best Company*; and*

—OR—

(B) Listed in the United States Treasury Department's current *Listing of Approved Sureties (Department Circular 570), as amended.*

(iii) The Company shall make available a memorandum of insurance, acceptable to the City, verifying the foregoing matters concurrent with the execution hereof and thereafter as required. Evidence of the Company's insurance is available at www.centurylink.com/moi.

(iv) In the event any work is subcontracted, the Company shall require its subcontractor, at no cost to the City, to secure and maintain all minimum insurance coverages required of the Company hereunder.

(v) The aforesaid policies shall provide that said insurance shall not be canceled unless thirty (30) days prior written notice (ten days for non-payment of premium) shall have been given to City (provided, however, that in the event that Company's insurance carrier will not provide such notice to City, then Company must provide such written notice to City within the time frames set forth above on any required coverage that is not replaced).

ARTICLE XII
REMEDIES

12.1 Duty to Perform. The Company and the City agree to take all reasonable and necessary actions to assure that the terms of this Agreement are performed.

12.2 Remedies at Law. In the event the Company or the City fails to fulfill any of its respective obligations under this Agreement, the Party that is not in default may exercise any remedies available to it provided by law; however, no remedy that would have the effect of amending the provisions of this Agreement shall become effective without a formal amendment of this Agreement.

ARTICLE XIII
NOTICES

13.1 City Designee and Address. Unless otherwise specified herein, all notices from the Company to the City pursuant to or concerning this Agreement shall be delivered to the City at Housing and Neighborhood Development Division, Real Estate Services Manager, at 451 South State Street, Room 248, P.O. Box 145460, Salt Lake City, Utah, 84114-5460, with a copy to the City Attorney, at 451 South State Street, Room 505A, P.O. Box 145478 Salt Lake City, Utah 84114-5478, and (b) such other offices as the City may designate by written notice to the Company.

13.2 Company Designee and Address. The Company currently maintains an office and telephone number for the conduct of matters relating to this Agreement and the Franchise during normal business hours and shall provide the City with notice of such address or telephone number changes. Unless otherwise specified herein, all notices from the City to the Company pursuant to or concerning this Agreement or the Franchise shall be delivered pursuant to section 15.9.

ARTICLE XIV
AMENDMENT

14.1 Changing Conditions; Duty to Negotiate. (a) The Company and the City recognize that many aspects of the telecommunications business are currently the subject of discussion, examination and inquiry by different segments of the industry and affected regulatory authorities, and that these activities may ultimately result in fundamental changes in the way the Company conducts its business. In recognition of the present state of uncertainty respecting these matters, the Company and the City each agree, at the request of the other during the term of this Agreement, to meet with the other and discuss in good faith whether it would be appropriate, in view of developments of the kind referred to above during the term of this Agreement, to amend this Agreement or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of any such developments.

(b) Either party may propose amendments to this Agreement by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s).

14.2 Entire Agreement; Amendment Approval Required. This Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, and can be amended, supplemented, modified, or changed only by the written agreement of the parties, including the formal approval of the City Council.

ARTICLE XV
MISCELLANEOUS

15.1 Conditions. If any section, sentence, paragraph, term or provision of this Agreement or the Ordinance is for any reason determined to be or rendered illegal, invalid, or superseded by other lawful authority including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof or thereof, all of which will remain in full force and effect for the term of this Agreement and the Ordinance or any renewal or renewals thereof.

15.2 No Waiver or Estoppel. Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Agreement by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any of such terms and conditions.

15.3 Fee Article Essential. (a) Article II hereof is essential to the adoption of this Agreement.

15.4 Waiver of Non-Severability. Notwithstanding the foregoing, if City stipulates in writing to judicial, administrative or regulatory action that seeks a determination that Article II is invalid, illegal, superseded or unconstitutional, then a determination that Article II is invalid, illegal, unconstitutional or superseded shall have no effect on the validity or effectiveness of any other section, sentence, paragraph term or provision of this Agreement, which shall remain in full force and effect.

15.5 Terms upon Renegotiation. In the event the parties are required to amend or otherwise renegotiate the Agreement pursuant to section 2.1(b) where the Company is no longer required to pay to the State of Utah the Municipal Telecommunications Tax, the Company agrees to remit to City during the term of such negotiations an amount equal to the remittance the City would have received pursuant to said tax attributable to the Company until such time as an amendment to the Agreement is executed; provided, however, that in no event shall the Company be obligated to pay a higher percentage of Gross Revenues derived from the sale of telecommunications services within the City than is paid by other telecommunication companies serving within the City.

15.7 Utah Governmental Records Management Act. Whenever the Company is required to deliver to the City, or make available to the City for inspection, any records of the Company, and such records are delivered to or made available to the City with a written claim of business confidentiality which meets, in the judgment of the City Representative, the requirements of the Utah Governmental Records Management Act ("GRAMA"), such records shall be classified by the City as "protected" within the meaning of GRAMA, and shall not be disclosed by the City except as may otherwise be required by GRAMA, by court order, or by applicable City ordinance

or policy.

15.8 Timeliness of Approvals. Whenever either party is required by the terms of this Agreement to request the approval or consent of the other party, such request shall be acted upon at the earliest reasonable convenience of the party receiving the request, and the approval or consent so requested shall not be unreasonably denied or withheld.

15.9 Notices**.** Any notice(s) required or permitted to be given pursuant to this Agreement may be personally served or may be served by certified mail, return receipt requested, to the following addressees:

City:

Salt Lake City Corporation
c/o Real Estate Services
451 South State St., Room 425
PO Box 145460
Salt Lake City, Utah 84114-5460

Company:

Qwest Corporation d/b/a CenturyLink QC
250 E 200 S Ste 1000
Salt Lake City, UT 84111
Attention: Local Network Engineering & Construction
with a copy to:

(a) CenturyLink Law Department
931 14th St
Denver, CO 80202
Attention: Network Attorney

and (b) such other offices as the Company may designate by written notice to the City.

16. Representation Regarding Ethical Standards for City Officers and Employees and Former City Officers and Employees. The Company represents that it has not (1) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

17. Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of the City and the Company. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

18. Force Majeure. The Company shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control, but the Company shall not be relieved of any of its obligations to comply promptly with any provision of this Franchise contract by reason of any failure of the City to enforce prompt compliance. Nothing herein shall be construed as to imply that either Party waives any right, payment, or performance based on future legislation where said legislation impairs this contract in violation of the United States or Utah Constitutions.

19. Governing Law and Venue. This Agreement and any action related to this Agreement will be governed by the laws of the State of Utah. Venue for any action brought pursuant to this Agreement will be in the United States District Court for the District of Utah in Salt Lake City.

20. Authority. Each individual executing this Agreement on behalf of the City and Company represents and warrant that such individual is duly authorized to execute and deliver this Agreement on behalf of the City or Company (as applicable).

[Signatures begin on following page.]

WITNESS WHEREOF, this Franchise Agreement is executed in duplicate originals as of the day and year first above written.

SALT LAKE CITY CORPORATION, a Utah municipal corporation

_____
Jacqueline M. Biskupski, Mayor

Date: _____

Attest and Countersign:

_____
City Recorder

Date of Recordation: _____

Approved As To Form:

_____
Kimberly K. Chytraus
Senior City Attorney

QWEST CORPORATION d/b/a
CenturyLink QC

By _____
Name: _____
Title: _____

Date: _____

State of _____)
:ss
County of _____)

On the ___ day of _____, 2018, personally appeared before me _____, who, being by me duly sworn did say that he/she is the _____ of Qwest Corporation d/b/a CenturyLink QC, and that the foregoing instrument was signed on behalf of said company and said person acknowledged to me that he/she is authorized to execute such instrument on behalf of said company.

_____

NOTARY PUBLIC, residing in _____ County,

My Commission Expires:

_____

SALT LAKE CITY ORDINANCE
No. __ of 2018
(Granting a Telecommunication Franchise to
Level 3 Communications, LLC and Level 3 Telecom LP)

WHEREAS, Level 3 Communications, LLC and Level 3 Telecom LP (formerly known as tw telecom, lp) (collectively, the "Company") desires to provide certain telecommunication services within Salt Lake City, Utah (the "City"), and in connection therewith to establish a network in, under, along, over, and across present and future streets, alleys and rights-of-way of the City, consisting of telecommunication lines and cables, together with all necessary and desirable appurtenances; and

WHEREAS, the City, in the exercise of its police power, ownership, use or rights over and in the public rights-of-way, and pursuant to its other regulatory authority, believes it is in the best interest of the public to provide to the Company, and its successors, a non-exclusive franchise to operate its business within the City; and

WHEREAS, the City and the Company propose to enter into a Franchise Agreement, the substantially final form of which has been presented to the City Council at the meeting at which this Ordinance is being considered for adoption; and

WHEREAS, the City desires to approve the execution and delivery of such Franchise Agreement and to otherwise take all actions necessary to grant the referenced Franchise to the Company; and

WHEREAS, the City believes this Ordinance to be in the best interest of the citizens of the City,

NOW, THEREFORE, be it ordained by the City Council of Salt Lake City, Utah, as follows:

SECTION 1. Purpose. The purpose of this Franchise Ordinance is to grant to the Company, and its successors and assigns, a non-exclusive right to use the present and future streets, alleys, viaducts, bridges, roads, lanes and public way within and under control of the City for its business purposes, under the constraints and for the compensation enumerated in the Franchise Agreement attached hereto as Exhibit A, and by this reference incorporated herein, as if fully set forth herein (the "Franchise Agreement").

SECTION 2. Short Title. This Ordinance shall constitute the Level 3 Telecommunications Franchise Ordinance.

SECTION 3. Grant of Franchise. There is hereby granted to the Company, and its successors and assigns, in accordance with the terms and conditions of the Franchise Agreement, the right, privilege, and franchise (collectively, the "Franchise"), to construct, maintain and operate in, under, along, over and across the present and future streets, alleys, and rights-of-way and other property of the City, all as more particularly described in the Franchise Agreement.

SECTION 4. Term. The term of the Franchise is for a ten (10) year period from and after the recordation of the executed Franchise Agreement with the Salt Lake City Recorder's Office, with a year to year automatic extension that can be terminated on at least 90 days' written notice before the end of the existing term.

The Company shall pay all costs of publishing this Ordinance.

SECTION 5. Acceptance by Company. Within thirty (30) days after the effective date of this Ordinance, the Company shall execute the Franchise Agreement and

return it to the City, otherwise, this Ordinance and the rights granted hereunder shall be null and void.

SECTION 6. No Franchise revocation or termination may be effected until the City Council shall first adopt an ordinance terminating the Franchise and setting forth the reasons therefor, following not less than thirty (30) days prior written notice to the Company of the proposed date of the ordinance adoption. The Company shall have an opportunity on said ordinance adoption date to be heard upon the proposed termination.

SECTION 7. This Ordinance shall take effect immediately upon publication.

[Signatures on Following Page.]

Passed by the City Council of Salt Lake City, Utah, this ____ day of _____, 2018.

_____
CHAIRPERSON

ATTEST:

_____
CHIEF DEPUTY CITY RECORDER

Transmitted to Mayor on _____.

Mayor's Action: _____Approved. _____Vetoed.

_____
MAYOR

ATTEST:

_____
CHIEF DEPUTY CITY RECORDER

(SEAL)

Salt Lake City Attorney's Office
Approved As To Form
By: _____
Kimberly Chytraus
Date: October 11, 2018

Bill No. _____ of 2018.
Published: _____.
HB_ATTY-#73452-v1-ORD_Franchise_Agreement_Level_3

EXHIBIT “A”

FRANCHISE AGREEMENT

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT (this "**Agreement**"), dated as of the Effective Date (defined below), by and between SALT LAKE CITY CORPORATION, a Utah municipal corporation (the "**City**"), and Level 3 Communications, LLC and Level 3 Telecom LP (formerly known as tw telecom, lp) (collectively, the "**Company**").

RECITALS

A. The Company desires a non-exclusive franchise to provide telecommunications, Internet and other related services to residents, businesses, and other customers within the boundaries of Salt Lake City, Utah, and to utilize public rights-of-way controlled by the City for such purpose.

B. The City considers it to be in the best interests of the City, and in furtherance of the health, safety, and welfare of the public, to grant such franchise to the Company, and in connection therewith desires to authorize the use of public rights-of-way controlled by the City in accordance with the provisions of this Agreement, and all applicable City ordinances and state and federal law, including, without limitation, the Federal Telecommunications Act of 1996 (the "**Telecommunications Act**").

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration and, further, in contemplation of subsequent approval by legislative action of the City Council as hereinafter provided, the parties mutually agree as follows.

ARTICLE I
FRANCHISE ORDINANCE

1.1 Ordinance. The City Council has adopted a franchise ordinance entitled Level 3 Telecommunications Franchise Ordinance (the "**Ordinance**"), approving the execution of this Agreement. Execution of this Agreement constitutes the unqualified acceptance of the Ordinance by the Company. Such Ordinance is incorporated herein by reference, and made an integral part of this Agreement.

1.2 Franchise Description. The Ordinance confers upon the Company, and its successors and assigns, the right, privilege, and franchise (the "**Franchise**"), to construct, maintain and operate in, under, along, over, across, and through portions of the Right-of-Way (as defined in Section 3.1 hereof), facilities consisting of telecommunication lines and cables (including, without limitation, fiber-optic and copper lines and cables), together with all necessary and desirable appurtenances (including without limitation underground and above ground conduits and structures, poles, towers, wire and cable) (collectively the "**Company Facilities**"). Upon the annexation of any territory to the City, all rights hereby granted, and the Franchise, shall automatically extend to the territory so annexed, to the extent the City has authority to so extend the Franchise. All facilities owned, maintained, or operated by the Company located within, under, or over public rights-of-way of the territory so annexed shall thereafter be subject to all terms

hereof. The Company Facilities may be used by the Company (and others, as provided herein), for the purpose of providing any of the services contemplated to be provided by telecommunications providers under the Telecommunications Act, and involving any switched or other one-way or two-way transmission of voice or data, including but not necessarily limited to (i) services interconnecting interexchange carriers for the purpose of any transmission of voice or data; (ii) services connecting interexchange carriers or competitive access carriers to local exchange providers for the purpose of any transmission of voice or data; (iii) services connecting interexchange carriers to any entity, other than another interexchange carrier or the local exchange provider for the purpose of any transmission of voice or data; (iv) services providing private line point-to-point service for end users for the purpose of any transmission of voice or data; (v) video, video conferencing or point-to-point private line service, or (vi) any service regulated by state regulatory agencies or the Federal Communications Commission which the state of Utah or Federal Communications Commission has authorized the Company to provide.

Anything in this Agreement to the contrary notwithstanding, the Company may not use the Company Facilities to provide, to any customer within the City, cable television services as defined in the federal Cable Communication Policy Act of 1984, as amended, without a separate franchise therefor.

1.3 Term. The term of the Franchise is ten (10) years commencing on the date both parties have signed this Agreement (with the City's signature evidenced by recordation with the Salt Lake City Recorder) (the "**Effective Date**"), and then from year-to-year until a party gives the other party at least ninety (90) days' notice in writing and in advance of expiration of the initial term or any subsequent term stating an intent to terminate the Agreement at the end of such existing term.

ARTICLE II
FRANCHISE FEE; ADMINISTRATION FEE

2.1 Franchise Fee. (a) For and in consideration of the Franchise, and as fair and reasonable compensation to the City for the use by the Company of the City's Right-of-Way, the Company will pay to the State of Utah for the benefit of the City an annual franchise fee (the "**Franchise Fee**"), in an amount equal to, and consisting of, the municipal telecommunications license tax (the "**Municipal Telecommunications Tax**") authorized pursuant to the Utah Municipal Telecommunications License Tax Act, Title 10, Chapter 1, Part 4, Utah Code Annotated 1953, as amended (the "**Municipal Telecommunications Tax Act**"). Such Franchise Fee shall be calculated in the manner provided in the Municipal Telecommunications Tax Act, and shall be paid by the Company to the Utah State Tax Commission, as agent for the City under an Interlocal Cooperation Agreement by and among the City, the Utah State Tax Commission, and others, at the times and in the manner prescribed in the Municipal Telecommunications Tax Act, and any rules and regulations promulgated thereunder. Compliance by the Company with the terms and provisions of the Municipal Telecommunications Tax Act, and any rules and regulations promulgated thereunder, shall satisfy all requirements of this Agreement with respect to the calculation and payment of the Franchise Fee.

(b) Notwithstanding the provisions of Section 2.1(a) above, the Franchise Fee shall be calculated and payable as described therein only so long as the Company and the services provided

within the City by the Company by means of the Company Facilities are subject to the Municipal Telecommunications Tax. This franchise does not contemplate or permit Company to provide cable television service and to the extent all or any portion of the Company Facilities is used to provide cable television service, Company shall acquire a separate franchise for same. In the event all or any portion of the Company Facilities ceases to be used by the Company to provide services subject to the Municipal Telecommunications Tax, the Company shall pay, in lieu of the Franchise Fee, a charge with respect to such portion of the Company Facilities, which shall be calculated as 3.5% of "gross revenue" (as defined in Utah Code Section 10-1-402). Such fee shall be paid annually, payable from and after (i) the date Company ceases to provide such services, or (ii) the date the Municipal Telecommunications Tax ceases to apply to the services provided by the Company. If at any time the Municipal Telecommunications Act is changed in such a way as to affect this Franchise in any way, the City and the Company agree to negotiate in good faith within sixty (60) days any amendments to this Agreement as shall be necessary to accommodate such changes, including payment provisions; provided such new or changed provisions shall conform substantially with the provisions contained in any permits held by other similarly situated companies.

2.2 Report of Franchise Fee Payment. Upon the written request of the City, the Company shall prepare and deliver to the City, an annual report summarizing Company payments to the Utah State Tax Commission for the requested period. Such report shall include such information related to such payment as the City shall reasonably request, including by way of example, and not limitation, the gross receipts of the Company from telecommunications service that are attributed to the City during such period, and the methodology for calculating such gross receipts.

2.3 Record Inspection. The records of the Company pertaining to the annual reports and payment required in this Agreement, including but not limited to any records deemed necessary or useful by the City to calculate or confirm gross receipts, and all other records of the Company reasonably required by the City to assure compliance by the Company with the terms of this Agreement ("Company Confidential Information"), shall be open to inspection by the City and its duly authorized representatives upon reasonable notice at all reasonable business hours of the Company. The Company may require such inspection to be performed at any Company Facilities where such Company Confidential Information may be located; provided that in the event such Company Confidential Information is not located at Company Facilities within the City, such Company Confidential Information shall be delivered by the Company for inspection by the City at the address of the City set forth in Section 13.1 hereof. City will hold in strict confidence and will keep confidential all Company Confidential Information. City will use reasonable care to avoid publication or dissemination of such Company Confidential Information. City will not disclose Company Confidential Information to any third person. Notwithstanding the previous sentence, City may disclose Company Confidential Information to its employees, officers, directors, consultants, advisors and agents (collectively, "Representatives") to the extent reasonably necessary to carry out the inspection; provided, however, that such Representatives are informed of the confidential nature of the Company Confidential Information, and are bound by confidentiality obligations no less stringent than those set forth herein. Notwithstanding the forgoing, Company acknowledges that City is subject to the requirements of GRAMA as provided

for in Paragraph 15.7 below. Company specifically waives any claims against City related to disclosure of any materials as required by GRAMA.

2.4 Service of Process. The Company agrees to use its best efforts to provide a local office within the State of Utah for purposes of acceptance of process. Otherwise, the Company agrees to advise City of a person or office where such process may be served.

2.5 Administrative Fee. In addition to the annual Franchise Fee described above, the Company shall pay to the City, upon execution and delivery hereof, a one-time administrative fee of $5,000, which shall compensate the City for (but which does not exceed), the direct costs and expenses incurred by the City in preparing, considering, approving, executing and implementing the Ordinance and this Agreement.

ARTICLE III
COMPANY USE OF RIGHT-OF-WAY

3.1 Franchise Rights to Use Right-of-Way. (a) The Company shall have the right to excavate in, and use any present and future City-owned or controlled street, alley, viaduct, bridge, road, lane and public way within the City, including the surface, subsurface and airspace (collectively the "**Right-of-Way**"), subject to the terms and conditions of this Agreement and in locations where Company obtains appropriate permits. In addition, the Company shall have the right to utilize any easement across private property granted to the City for utility purposes, provided (i) the prior written consent of the director of the City department which controls such easement is obtained in each case, and (ii) the documents granting such easement to the City authorize such use. In all cases, the precise location of the Company Facilities within, on, over, under, across or through the Right-of-Way shall be subject to City's reasonable and lawful approval, and the right to use such Rights-of-Way shall be subject to the terms of this Agreement, and all applicable federal, state, and City laws, ordinances, rules, and regulations now existing or from time to time adopted or promulgated.

(b) The rights granted to the Company herein do not include the right to (i) excavate in, occupy or use any City park, recreational areas or other property owned by the City, or (ii) attach or locate any of the Company Facilities to or on, or otherwise utilize any of, any City-owned property or facilities or structures, including without limitation light poles, towers, buildings and trees. The use of such City-owned property or facilities by the Company shall be considered by the City on a case-by-case basis, and shall be subject to payment of additional compensation to the City. Similarly, the rights granted herein by the City to the Company do not include the right to situate any Company Facilities on poles or other property owned by entities other than the City and situated in the City's Right-of-Way. It shall be the responsibility of the Company to negotiate any pole-attachment agreements or similar agreements with the owners of such poles or facilities, and to pay to such owners any required compensation.

3.2 Duty to Relocate. (a) Whenever the City shall require the relocation or reinstallation of any of the Company Facilities situated within the Right-of-Way, it shall be the obligation of the Company, upon notice of such requirement and written demand made of the

Company, and within a reasonable time thereof, but not less than sixty (60) days from the date of notice, to commence to remove and relocate or reinstall such Company Facilities as may be reasonably necessary to meet the requirements of the City, which relocation shall be completed within a reasonably practicable time thereafter, but in no event longer than one hundred twenty (120) days, unless extended by mutual agreement. In exigent circumstances, Company will work with City to cause such relocation to be completed as quickly as possible. Such relocation may be required by the City for any lawful purpose, including, without limitation, the resolution of existing or anticipated conflicts or the accommodation of any conflicting uses or proposed uses of the Right-of-Way, whether such conflicts arise in connection with a City project or a project undertaken by some other person or entity, public or private. The City will cooperate with the Company to provide alternate space where available, within the Right-of-Way, at no additional cost to the Company.

(b) Such relocations, as described above in subsection (a), shall be accomplished by the Company at no cost or expense to the City. In the event the relocation is ordered for other purposes, including but not limited to projects undertaken in whole or in part to accommodate the facilities, development or other project of an entity other than the City or the Company, the cost and expense of such relocation shall be borne by such other entity. Any money and all rights to reimbursement from the State of Utah or the federal government to which the Company may be entitled for work done by the Company pursuant to this paragraph, shall be the property of the Company. City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

3.3 City Duty to Obtain Approval to Move Company Property; Emergency Exception. Except as otherwise provided herein, the City shall not, without the prior written approval of the Company, intentionally alter, remove, relocate or otherwise interfere with any portion of the Company Facilities. However, if it becomes necessary, in the judgment of the City Representative (as defined in Section 6.1 hereof), to cut or move any of the Company Facilities because of a fire, flood, emergency, earthquake disaster or other imminent threat thereof, or to relocate any portion of the Company Facilities upon the Company's failure to do so following a request by the City under Section 3.2 hereof, these acts may be done without prior written approval of the Company and the repairs thereby rendered necessary shall be made by the Company, without charge to the City. Any written approval required shall be reviewed and processed by the Company within seven calendar days and approval shall not be unreasonably withheld, conditioned, or delayed.

3.4 Annual Information Coordination. Upon reasonable request, and no more than once per year, the Company and City shall meet for the purpose of exchanging information and documents regarding known or anticipated construction and other similar work within the City, with a view toward coordinating their respective activities in those areas where such coordination may prove mutually beneficial.

3.5 Common Use of Facilities. (a) In order to minimize the adverse impact to the Right-of-Way and to City facilities, and inconvenience to the public, caused by construction, repair and maintenance activities multiple utility franchisees, it is the policy of the City to encourage the

shared use of telecommunication facilities by City franchisees and permittees whenever practicable.

(b) Except when necessary to service a subscriber, and subject to the written approval and conditions of the City, the Company will endeavor to, prior to constructing any Company Facilities, fully utilize any excess capacity reasonably and cost-effectively available on any existing poles or within any existing conduit, under such terms and agreements as the Company negotiates with the owners of such poles or conduits. The City shall cooperate with the Company in negotiating and obtaining permission to use such facilities.

(c) Intentionally deleted.

(d) No Company Facilities shall be installed or the installation thereof commenced on any existing pole within the Right-of-Way until the proposed location, specifications and manner of installation thereof are set forth upon a plot or map showing the existing poles, where such installations are proposed. The plot or map shall be submitted for approval to the City Representative.

(e) If the Company is required to locate Company Facilities within the Right-of-Way other than Company Facilities which may be attached to utility poles, the nature of such Company Facilities shall be disclosed to the City Representative for approval as to the need thereof and as to the location within the Right-of-Way. The installation shall be made under such reasonable and lawful conditions as the City Representative shall prescribe.

(f) The Company may trim at its own expense any trees or other vegetation overhanging the Right-of-Way of the City to prevent interference with Company Facilities. All trimming on City property shall be done with the approval of and under the direction of the City's Urban Forester and at the expense of the Company.

(g) The Company shall, at the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of such building. The expense of such temporary removal or raising or lowering of the wires shall be paid by the person requesting the same and the Company shall have the authority to require such payment in advance. The City agrees to cause prior written notice of the necessity to move wires to be given as far in advance as possible, provided that in no event shall less than thirty (30) days' advance notice be given.

3.6 Duty to Underground. (a) The Company shall be required to comply with the rules and regulations of the Public Service Commission in regard to the installation of underground lines. In addition, the Company shall comply with rules and regulations adopted by the City for the placement of newly constructed network lines underground; provided, however, Company shall only be required to place newly constructed network lines underground to the extent that underground placement is also required of all other existing and newly constructed lines of other telecommunication companies at that location with the City at Company's cost. Undergrounding may be required by the City for any lawful purpose, including, without limitation, the resolution of existing or anticipated conflicts or the accommodation of any conflicting uses or proposed uses

of the Right-of-Way, whether such conflicts arise in connection with a City project or a project undertaken by some other person or entity, public or private. If all other electric utilities or telephone utilities are located or relocated underground in any place within the City after the Company has installed its facilities the Company shall thereafter remove and relocate its facilities underground in such places and within a timeframe agreed to by the parties. Where utilities are underground, the Company may locate certain equipment above ground upon a showing of necessity and with the written approval from the City.

(b) City will cooperate with the Company to provide alternate space where available, within the Right-of-Way, at no additional cost to the Company. Undergrounding, as described above in subsection (a), shall be accomplished by the Company at no cost or expense to the City. In the event the undergrounding is ordered for other purposes, including but not limited to projects undertaken in whole or in part to accommodate the facilities, development or other project of an entity other than the City or the Company, the cost and expense of such undergrounding shall be borne by such other entity. Any money and all rights to reimbursement from the State of Utah or the federal government to which the Company may be entitled for work done by the Company pursuant to this paragraph, shall be the property of the Company. City shall assign or otherwise transfer to the Company all rights it may have to recover costs for such work performed by the Company and shall reasonably cooperate with the Company's efforts to obtain reimbursement.

3.7 Company Duty to Comply With Rules and Regulations. Company Facilities located on, upon, over or under the Right-of-Way shall be constructed, installed, maintained, cleared of vegetation, renovated or replaced in accordance with such lawful rules and regulations as the City may issue. The Company shall acquire, and any fees with respect to, such permits as may be required by such rules and regulations, and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance.

3.8 Intentionally deleted.

3.9 Compliance with Applicable Law. All Company Facilities installed or used under color of this Agreement shall be used, constructed and maintained in accordance with applicable federal, state and City laws and regulations, including without limitation environmental laws; provided that this provision shall not be construed to require the Company to modify or retrofit any existing facilities to meet new code standards unless otherwise required by law. Nothing in this Agreement shall constitute a waiver of either party's right to challenge any portion of this Agreement which is not in accordance with applicable federal, state and local laws.

3.10 Location to Minimize Interference. All Company Facilities shall be reasonably located so as to cause minimum interference with the use of the Right-of-Way by others, and so as to cause minimum interference with the rights of the owners of property which abuts any portion of the Right-of-Way.

3.11 Repair Damage. If during the course of work on Company Facilities, the Company causes damage to or alters any portion of the Right-of-Way, or any City facilities or other public property or facilities, the Company shall (at its own cost and expense and in a manner approved

by the City Representative), replace and restore such portion of the Right-of-Way or any City facilities or other public or private property or facilities, in accordance with applicable City ordinances, policies and regulations relating to repair work of similar character.

3.12 Guarantee of Repairs. For a period of three years following the completion of any work in the Right-of-Way or any repair work performed pursuant to Section 3.11, and excluding damage caused by City or other third party, the Company shall maintain, repair, and keep in good condition those portions of the Right-of-Way or property or facilities restored, repaired or replaced by or on behalf of the Company, to the reasonable satisfaction of the City Engineer.

3.13 Safety Standards. The Company's work, while in progress, shall be properly protected at all times with suitable barricades, flags, lights, flares, or other devices in accordance with applicable safety regulations or standards imposed by law.

3.14 Condition of Company Facilities. The Company shall maintain the general appearance of Company Facilities in a good and workmanlike manner consistent with best industry practice.

3.15 Inspection by the City. The Company Facilities shall be subject to inspection by the City to the extent reasonably necessary to assure compliance by the Company with the terms of this Agreement. The City shall inspect Company Facilities at reasonable times and upon reasonable notice to the Company; provided, however, the inspection shall not interrupt or interfere with any services provided by the Company.

3.16 Company's Duty to Remove Company Facilities from the Right-of-Way.

(a) Subject to subsection (c) below, the Company shall promptly remove from the Right-of-Way all or any part of the Company Facilities, when one or more of the following conditions occur:

(i) The Company ceases to operate such Company Facilities for a continuous period of twelve (12) months, and does not begin operating such Company Facilities as provided below within thirty (30) days after receiving notice following any such cessation from the City, except when the cessation of service is a direct result of a natural or man-made disaster;

(ii) The failure to cure construction or installation of such Company Facilities that do not meet the requirements of this Agreement following notice by City described below; or

(iii) The Franchise is terminated or revoked pursuant to notice as provided herein; provided, however, that the Company need not remove its network if the City continues to receive payments from the state related hereto, and the parties are in discussion of a renewal or replacement franchise or similar agreement.

(b) Upon receipt by the Company of written notice from the City setting forth one or more of the occurrences specified in subsection (a) above, the Company shall have ninety (90) days from the date upon which said notice is received to remove such Company Facilities, or, in

the case of subsection (a), to begin operating the Company Facilities.

(c) The Company may abandon any underground Company Facilities in place, subject to the reasonable requirements of the City, and with the prior written consent of the City, which may be granted or withheld in the City's sole and absolute discretion. In such an event, the abandoned system shall become the property of the City and the Company shall have no further responsibilities or obligations concerning those facilities. The City shall not use the possibility of obtaining ownership of the abandoned system as a rationale for terminating or revoking this Agreement.

3.17 Operational Reports. During the period of construction of any Company Facilities, the Company shall furnish the City with written progress reports as required pursuant to the terms of any permit to work in the public way.

3.18 Removal of Facilities Upon Request. Company shall comply with the regulations of the Utah Public Service Commission regarding removal of the Company Facilities.

ARTICLE IV
CITY USE RIGHTS

4.1 City Use of Poles and Overhead Structures. The City shall have the right to enter into a contract with the Company to license for a fee poles and conduit owned by the Company within the City for fire alarms, police signal systems, or any other lawful use; provided, however, any said uses by the City shall be for activities owned, operated or exclusively used by the City for any public purposes and shall not include the provision of telecommunication, communication, or Internet services to third parties.

4.2 Use of Trenches. Whenever the Company proposes to install new underground conduits or replace existing underground conduits within or under the Right-of-Way, it shall notify the City Representative as soon as practical and shall allow the City, at its own expense, and without charge to the Company, to use any such trench opened by the Company to lay the City's facilities therein; provided, (i) that such action will not materially interfere with Company Facilities or delay or otherwise complicate the accomplishment of the Company's project; (ii) any said uses by the City shall be for activities owned, operated or exclusively used by the City for any public purposes and shall not include the provision of telecommunication, communication, or Internet services to third parties; and (iii) that the Company may require the City to agree to reasonable terms and conditions of such use..

4.3 Use of Company Corridors. The City may identify corridors which the Company now or in the future owns in fee within the City and which are similar in nature to transmission corridors of electric utility companies. The City may identify portions of such corridors, if any, as being desirable locations for public parks, playgrounds or recreation areas. In such event, and upon notice by the City, the Company shall discuss with the City in good faith whether an agreement providing for such uses by the City can be reached; provided that such use shall be within the sole discretion of Company The Company shall assume no liability nor shall it incur, directly or indirectly any additional expense in connection therewith.

4.4 Limitation on Use Rights. Nothing in this Article 4 shall be construed to require the Company to increase pole capacity or trench size, alter the manner in which the Company attaches equipment to the poles or installs facilities, or alter the manner in which it operates and maintains its equipment.

ARTICLE V
POLICE POWER

The City expressly reserves, and the Company expressly recognizes, the City's right and duty to adopt, from time to time, in addition to the provisions herein contained, such ordinances, rules and regulations as the City may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its residents and their properties. This Agreement is subordinate to City's exercise of its police power.

ARTICLE VI
CITY REPRESENTATIVE

6.1 City Representative. Except as provided hereinafter, the City Engineer, or his/her designee, or such other person as the Mayor may designate from time to time (which designation shall be communicated to the Company in writing), is hereby designated the official of the City having full power and authority, along with a representative of the City Attorney's Office, to take appropriate action for and on behalf of the City and its inhabitants to enforce the provisions of this Agreement and to investigate any alleged violations or failures of the Company to comply with said provisions or to adequately and fully discharge its responsibilities and obligations hereunder. The City Engineer or such other designee is referred to herein as the City Representative. The failure or omission of the City Representative to so act shall not constitute a waiver or estoppel. The City Representative shall be the Company's initial point of contact with the City. Unless specifically provided otherwise, all decisions, consents or approvals required of the "City" shall be made or given by the City through the City Representative. The City Representative shall coordinate with other City officials, personnel and departments in all matters relating to this Agreement.

6.2 Company Duty to Cooperate. In order to facilitate such duties of the City Representative, the Company agrees:

(a) To allow the City Representative to inspect at a reasonable time and without interference to Company operations the Company Facilities in accordance with Section 3.15.

(b) That the City Representative may convey to the Company, and, with notice to the Company in accordance with this Agreement, to the Federal Communications Commission, the Utah Public Service Commission and any other regulatory agency having jurisdiction, any complaint of any customer of the Company within the City with respect to the quality and price of telecommunication services and the appropriate standards thereof; provided, however, that City Representative's failure to provide any such notice to the Company shall not constitute a breach of this Agreement.

ARTICLE VII
Intentionally Deleted.

ARTICLE VIII
CONTINUATION OF SERVICE

In the event the Company is or becomes the exclusive local exchange carrier providing basic telephone exchange services within the City, the removal of Company Facilities, and the discontinuation of telecommunication services by the Company within the City, shall be subject to applicable regulations and procedures of the Public Service Commission, or any successor regulatory body.

ARTICLE IX
TRANSFER OF FRANCHISE

(a) The Company shall not sell, transfer, lease, assign, sublet or otherwise make available to any person or entity other than the Company, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the Franchise or any rights or privileges under this Agreement (each, a "Transfer"), to Proposed Transferee, without the prior written consent of the City, such consent will not be unreasonably withheld. The following events (by way of illustration and not limitation) shall be deemed to be a Transfer of the Franchise requiring compliance with this Article: (i) the sale, assignment or other transfer of all or a majority of the Company's assets to another Person; (ii) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in the Company by one or more of its existing shareholders, partners, members or other equity owners, so as to create a new Controlling Interest in the Company; (iii) the issuance of additional capital stock or partnership, membership or other equity interest by the Company so as to create a new Controlling Interest in the Company; or (iv) the entry by the Company into an agreement with respect to the management or operation of the Company or its facilities (including the Company Facilities).

(b) The consent required shall be given or denied by the City not later than one-hundred twenty (120) days following receipt by the City of a written request for consent, and shall not be unreasonably withheld. For the purpose of determining whether it shall grant its consent, the City may inquire into the qualifications of the Proposed Transferee, and the Company shall assist the City in the inquiry. City may condition or deny its consent based on any or a combination of the following or similar criteria. The Proposed Transferee shall indicate by affidavit whether it:

(i) has ever been convicted or held liable for acts involving deceit including any violation of federal, State or local law or regulations, or is currently under an indictment, investigation or complaint charging such acts;

(ii) has ever had a judgment entered against it in an action for fraud, deceit, or misrepresentation by any court of competent jurisdiction;

(iii) has pending any material legal claim, lawsuit, or administrative proceeding arising out of or involving a system similar to the Company Facilities, except that any

such claims, suits or proceedings relating to insurance claims, theft or service, or employment matters need not be disclosed;

(iv) is financially solvent, by submitting financial data, including financial statements, that have been audited by a certified public accountant, along with any other data that the City may reasonably require;

(v) has the financial and technical capability to enable it to maintain and operate the Company Facilities for the remaining term of this Agreement; and

(vi) the use of the Company Facilities and Right-of-Way by the Proposed Transferee are consistent with the uses by the Company permitted under this Agreement.

The Company shall provide to the City information regarding any failure by the Company to comply with any provision of this Agreement or of any applicable customer or consumer service standards promulgated or in effect in the City's jurisdiction at any point during the term of this Agreement.

(c) Notwithstanding the foregoing, the City's consent shall not be required in connection with, and Company shall provide prompt written notice to City of, the following circumstances:

(i) The intracorporate transfer from one wholly-owned subsidiary to another wholly-owned subsidiary of a parent corporation;

(ii) Any transfer in trust, a mortgage, or other instrument of hypothecation of the assets of the Company, in whole or in part, to secure an indebtedness, provided that such pledge of the assets of the Company shall not impair or mitigate the Company's responsibility and capability to meet all its obligations under this Agreement;

(iii) Any sale or other transfer by the Company of equipment or property;

(iv) Interconnection, license, pole attachment or other agreements pursuant to which the Company Facilities may be used by another entity operating within the City (provided, however, that Company acknowledges that such other entity shall be required to obtain any relevant permits from the City); or

(v) Company's acquisition of another entity when the use of the Right-of-Way by the acquired entity is consistent with the use permitted under this Agreement.

(d) Transfer by the Company shall not constitute a waiver or release of any rights of the City in or to its Right-of-Way and any transfer shall by its own terms be expressly subject to the terms and conditions of this Agreement.

(e) A sale, transfer or assignment of this Agreement will only be effective upon the Proposed Transferee becoming a signatory to this Agreement by executing an unconditional acceptance of this Agreement.

(f) For purposes of this Article IX, the following terms shall have the following meanings:

(i) "Control" or "Controlling Interest" means actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the Company Facilities or of the Company. A rebuttable presumption of the existence of Control or a Controlling Interest shall arise from the beneficial ownership, directly, by any person, or group of persons or entities acting in concert, of more than fifty percent (50%) of the Company. "Control" or "Controlling Interest" as used herein may be held simultaneously by more than one Person.

(ii) "Person" means any individual, sole proprietorship, partnership, association or corporation, or any other form of organization, and includes any natural person.

(iii) "Proposed Transferee" means a proposed purchaser, transferee, lessee, assignee or person acquiring ownership or control of the Company.

ARTICLE X
EARLY TERMINATION OR REVOCATION OF FRANCHISE

10.1 Grounds for Termination. The City may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:

(a) The Company fails to make timely payments of the Franchise Fee as required under Article II of this Agreement, or any other fee due to the City under the terms of this Agreement, and does not correct such failure within forty-five (45) business days after receipt of written notice by the City of such failure.

(b) The Company, by act or omission, violates a material term or condition herein set forth within the Company's control, and with respect to which redress is not otherwise herein provided. In such event, the City, acting by or through its City Council, may after public hearing, determine that such failure is of a material nature and thereupon, after written notice given to the Company of such determination, the Company shall, within thirty (30) days of such notice, commence efforts to remedy the conditions identified in the notice, and shall have six (6) months from the date it receives notice to remedy the conditions. After the expiration of such six (6) month period and upon failure by the Company to correct such conditions, the City may declare the Franchise forfeited and this Agreement terminated, and thereupon the Company shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further that in the event such failure is of such nature that it cannot be reasonably corrected within the six (6) month period above, the City shall provide additional time for the reasonable correction of such alleged failure if the Company (i) commences corrective action during such six (6) month period,

and (ii) diligently pursues such corrective action to completion.

(c) The Company becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its facilities are sold under an instrument to secure a debt and is not redeemed by the Company within sixty (60) days.

(d) In furtherance of the Company policy or through acts or omissions done within the scope and course of employment, a member of the Board of Directors or an officer of the Company knowingly: (i) engages in conduct or (ii) makes a material misrepresentation with or to the City, that is fraudulent or in violation of a felony criminal statute of the State of Utah.

(e) Company abandons use of all Company Facilities for 12 consecutive months.

10.2 Reserved Rights. Nothing contained herein shall be deemed to preclude the Company from pursuing any legal or equitable rights or remedies it may have to challenge the action of the City.

ARTICLE XI
COMPANY INDEMNIFICATION; INSURANCE

11.1 No City Liability. The City shall in no way be liable or responsible for any loss or damage to property or any injury to, or death of, any person that may occur in the construction, operation or maintenance by the Company of the Company Facilities; provided, however, that the City will be liable only for its own conduct, subject to and without waiving any defenses, including limitation of damages, provided for in the Utah Governmental Immunity Act (Utah Code §§ 63G-7-101 *et seq.*) or successor provision. Company agrees that the Rights-of-Way are delivered in an "AS IS, WHERE IS" condition and City makes no representation or warranty regarding their condition, and disclaims all express and implied warranties.

11.2 Company Indemnification of City. The Company shall indemnify, defend and hold the City, its officers and employees, harmless from and against all losses, claims, counterclaims, demands, actions, damages, costs, charges, liens and all liability or damage of whatsoever kind on account of or arising from the exercise by the Company of its rights hereunder, and shall pay the reasonable costs of defense, including reasonable attorneys' fees. Said indemnification shall include but not be limited to the Company's intentional or negligent acts or omissions pursuant to its use of the rights and privileges of this Agreement, including construction, operation and maintenance of the Company Facilities whether or not any such use, act or omission complained of is authorized, allowed or prohibited by this Agreement. The Company's duty to defend the City shall exist regardless of whether the City or the Company may ultimately be found to be liable for third party negligence or other conduct. In the event that City's tender of defense is rejected by Company or Company's insurer, and Company is later found by a court of competent jurisdiction to have been required to indemnify City, then in addition to any other remedies City may have, Company agrees to pay the City's reasonable costs, expenses and attorney's fees in proving such liability, defending itself and enforcing this indemnity provision to the extent required by section 11.3 below.

11.3 Notice of Indemnification. The City shall (a) give prompt written notice to the Company of any claim, demand or lien with respect to which the City seeks indemnification hereunder and (b) unless in the City's judgment a conflict of interest may exist between the City and the Company with respect to such claim, demand or lien, permit the Company to assume the defense of such claim, demand, or lien with counsel satisfactory to City. If such defense is not assumed by the Company, the Company shall not be subject to any liability for any settlement made without its consent. Notwithstanding any provision hereof to the contrary, the Company shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any breach by the City of any obligation under this Agreement or any negligent act or failure to act of the City or any of its officers or employees or agents.

11.4 Insurance.

(a) The Company, at its own cost and expense, shall secure and maintain, and shall ensure that any subcontractor to the Company shall secure and maintain, during the term of this Agreement the following policies of insurance:

(i) Commercial General Liability Insurance. Commercial general liability insurance with the City as an additional insured on a primary and non-contributing bases in comparison to all other insurance including City's own policy or policies of insurance, in the minimum amount of $2,000,000 per occurrence with a $3,000,000 general aggregate and $3,000,000 products completed operations aggregate. These limits can be covered either under a CGL insurance policy alone, or a combination of a CGL insurance policy and an umbrella insurance policy and/or a CGL insurance policy and an excess insurance policy. The policy shall protect the City, Company, and any subcontractors from claims for damages for personal injury, including accidental death, and from claims for property damage that may arise from the Company's operations under this Agreement, whether performed by Company itself, any subcontractor, or anyone directly or indirectly employed by either of them. Such insurance shall provide coverage for premises operations, acts of independent contractors, products, and completed operations.

(ii) Commercial Automobile Liability Insurance. Commercial automobile liability insurance that provides coverage for owned, hired, and non-owned automobiles, used in connection with this Agreement in the minimum amount of with a combined single limit of $2,000,000 per occurrence. These limits can be covered either under a commercial automobile liability insurance policy alone, or a combination of a commercial automobile liability insurance policy and an umbrella insurance policy and/or a commercial automobile liability insurance policy and an excess insurance policy. If the policy only covers certain vehicles or types of vehicles, such as scheduled autos or only hired and non-owned autos, Company shall only use those vehicles that are covered by its policy in connection with any work performed under this Agreement.

(iii) Workers' Compensation and Employer's Liability. Worker's compensation and employer's liability insurance sufficient to cover all of the Company's employees

pursuant to Utah law, unless a waiver of coverage is allowed and acquired pursuant to Utah law. In the event any work is subcontracted, the Company shall require its subcontractor(s) similarly to provide worker's compensation insurance for all of the latter's employees, unless a waiver of coverage is allowed and acquired pursuant to Utah law.

(b) General Insurance Requirements.

(i) Any insurance coverage required herein that is written on a "claims made" form rather than on an "occurrence" form shall (A) provide full prior acts coverage or have a retroactive date effective before the date of this Agreement, and (B) be maintained for a period of at least three (3) years following the end of the term of this Agreement or contain a comparable "extended discovery" clause. Evidence of current extended discovery coverage and the purchase options available upon policy termination shall be provided to the City.

(ii) All policies of insurance shall be issued by insurance companies authorized to do business in the state of Utah and either:

(A) Currently rated A- or better by A.M. Best Company*; and*

—OR—

(B) Listed in the United States Treasury Department's current *Listing of Approved Sureties (Department Circular 570), as amended.*

(iii) The Company shall make available a memorandum of insurance, acceptable to the City, verifying the foregoing matters concurrent with the execution hereof and thereafter as required. Evidence of the Company's insurance is available at www.centurylink.com/moi.

(iv) In the event any work is subcontracted, the Company shall require its subcontractor, at no cost to the City, to secure and maintain all minimum insurance coverages required of the Company hereunder.

(v) The aforesaid policies shall provide that said insurance shall not be canceled unless thirty (30) days prior written notice (ten days for non-payment of premium) shall have been given to City (provided, however, that in the event that Company's insurance carrier will not provide such notice to City, then Company must provide such written notice to City within the time frames set forth above on any required coverage that is not replaced).

ARTICLE XII
REMEDIES

12.1 Duty to Perform. The Company and the City agree to take all reasonable and necessary actions to assure that the terms of this Agreement are performed.

12.2 Remedies at Law. In the event the Company or the City fails to fulfill any of its respective obligations under this Agreement, the Party that is not in default may exercise any remedies available to it provided by law; however, no remedy that would have the effect of amending the provisions of this Agreement shall become effective without a formal amendment of this Agreement.

ARTICLE XIII
NOTICES

13.1 City Designee and Address. Unless otherwise specified herein, all notices from the Company to the City pursuant to or concerning this Agreement shall be delivered to the City at Housing and Neighborhood Development Division, Real Estate Services Manager, at 451 South State Street, Room 248, P.O. Box 145460, Salt Lake City, Utah, 84114-5460, with a copy to the City Attorney, at 451 South State Street, Room 505A, P.O. Box 145478 Salt Lake City, Utah 84114-5478, and (b) such other offices as the City may designate by written notice to the Company.

13.2 Company Designee and Address. The Company currently maintains an office and telephone number for the conduct of matters relating to this Agreement and the Franchise during normal business hours and shall provide the City with notice of such address or telephone number changes. Unless otherwise specified herein, all notices from the City to the Company pursuant to or concerning this Agreement or the Franchise shall be delivered pursuant to section 15.9.

ARTICLE XIV
AMENDMENT

14.1 Changing Conditions; Duty to Negotiate. (a) The Company and the City recognize that many aspects of the telecommunications business are currently the subject of discussion, examination and inquiry by different segments of the industry and affected regulatory authorities, and that these activities may ultimately result in fundamental changes in the way the Company conducts its business. In recognition of the present state of uncertainty respecting these matters, the Company and the City each agree, at the request of the other during the term of this Agreement, to meet with the other and discuss in good faith whether it would be appropriate, in view of developments of the kind referred to above during the term of this Agreement, to amend this Agreement or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of any such developments.

(b) Either party may propose amendments to this Agreement by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s).

14.2 Entire Agreement; Amendment Approval Required. This Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, and can be amended, supplemented, modified, or changed only by the written agreement of the parties, including the formal approval of the City Council.

ARTICLE XV
MISCELLANEOUS

15.1 Conditions. If any section, sentence, paragraph, term or provision of this Agreement or the Ordinance is for any reason determined to be or rendered illegal, invalid, or superseded by other lawful authority including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof or thereof, all of which will remain in full force and effect for the term of this Agreement and the Ordinance or any renewal or renewals thereof.

15.2 No Waiver or Estoppel. Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Agreement by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any of such terms and conditions.

15.3 Fee Article Essential. (a) Article II hereof is essential to the adoption of this Agreement.

15.4 Waiver of Non-Severability. Notwithstanding the foregoing, if City stipulates in writing to judicial, administrative or regulatory action that seeks a determination that Article II is invalid, illegal, superseded or unconstitutional, then a determination that Article II is invalid, illegal, unconstitutional or superseded shall have no effect on the validity or effectiveness of any other section, sentence, paragraph term or provision of this Agreement, which shall remain in full force and effect.

15.5 Terms upon Renegotiation. In the event the parties are required to amend or otherwise renegotiate the Agreement pursuant to section 2.1(b) where the Company is no longer required to pay to the State of Utah the Municipal Telecommunications Tax, the Company agrees to remit to City during the term of such negotiations an amount equal to the remittance the City would have received pursuant to said tax attributable to the Company until such time as an amendment to the Agreement is executed; provided, however, that in no event shall the Company be obligated to pay a higher percentage of Gross Revenues derived from the sale of telecommunications services within the City than is paid by other telecommunication companies serving within the City.

15.7 Utah Governmental Records Management Act. Whenever the Company is required to deliver to the City, or make available to the City for inspection, any records of the Company, and such records are delivered to or made available to the City with a written claim of business confidentiality which meets, in the judgment of the City Representative, the requirements of the Utah Governmental Records Management Act ("GRAMA"), such records shall be classified by the City as "protected" within the meaning of GRAMA, and shall not be disclosed by the City except as may otherwise be required by GRAMA, by court order, or by applicable City ordinance

or policy.

15.8 Timeliness of Approvals. Whenever either party is required by the terms of this Agreement to request the approval or consent of the other party, such request shall be acted upon at the earliest reasonable convenience of the party receiving the request, and the approval or consent so requested shall not be unreasonably denied or withheld.

15.9 Notices**.** Any notice(s) required or permitted to be given pursuant to this Agreement may be personally served or may be served by certified mail, return receipt requested, to the following addressees:

City:

Salt Lake City Corporation
c/o Real Estate Services
451 South State St., Room 425
PO Box 145460
Salt Lake City, Utah 84114-5460

Company:

Level 3 Communications, LLC and Level 3 Telecom LP
Salt Lake City, UT 84111
Attention: Local Network Engineering & Construction
with a copy to:

(a) CenturyLink Law Department
931 14th St
Denver, CO 80202
Attention: Network Attorney

and (b) such other offices as the Company may designate by written notice to the City.

16. Representation Regarding Ethical Standards for City Officers and Employees and Former City Officers and Employees. The Company represents that it has not (1) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

17. Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of the City and the Company. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

18. Force Majeure. The Company shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control, but the Company shall not be relieved of any of its obligations to comply promptly with any provision of this Franchise contract by reason of any failure of the City to enforce prompt compliance. Nothing herein shall be construed as to imply that either Party waives any right, payment, or performance based on future legislation where said legislation impairs this contract in violation of the United States or Utah Constitutions.

19. Governing Law and Venue. This Agreement and any action related to this Agreement will be governed by the laws of the State of Utah. Venue for any action brought pursuant to this Agreement will be in the United States District Court for the District of Utah in Salt Lake City.

20. Authority. Each individual executing this Agreement on behalf of the City and Company represents and warrant that such individual is duly authorized to execute and deliver this Agreement on behalf of the City or Company (as applicable).

[Signatures begin on following page.]

WITNESS WHEREOF, this Franchise Agreement is executed in duplicate originals as of the day and year first above written.

SALT LAKE CITY CORPORATION, a Utah municipal corporation

_____
Jacqueline M. Biskupski, Mayor

Date: _____

Attest and Countersign:

_____
City Recorder

Date of Recordation: _____

Approved As To Form:

_____
Kimberly K. Chytraus
Senior City Attorney

Level 3 Communications, LLC

By _____
Name: _____
Title: _____

Date: _____

State of _____)
:ss
County of _____)

On the ___ day of _____, 2018, personally appeared before me _____, who, being by me duly sworn did say that he/she is the _____ of Level 3 Communications, LLC, and that the foregoing instrument was signed on behalf of said company and said person acknowledged to me that he/she is authorized to execute such instrument on behalf of said company.

_____

NOTARY PUBLIC, residing in _____ County,

My Commission Expires:

_____

Level 3 Telecom LP (formerly known as tw telecom, lp)

By _____
Name: _____
Title: _____

Date: _____

State of _____)
:ss
County of _____)

On the ___ day of _____, 2018, personally appeared before me _____, who, being by me duly sworn did say that he/she is the _____ of Level 3 Telecom LP, and that the foregoing instrument was signed on behalf of said company and said person acknowledged to me that he/she is authorized to execute such instrument on behalf of said company.

_____

NOTARY PUBLIC, residing in _____ County,

My Commission Expires:

_____