

# Index

CenturyLink Franchise Agreement

CenturyLink Amendment to Franchise Agreement

1 | FRANCHISE AGREEMENT

2 |  
3 | THIS FRANCHISE, granted this 17th day of November, 1982,  
4 | by the BOARD OF CITY COMMISSIONERS, of the CITY OF LAS VEGAS,  
5 | NEVADA to CENTRAL TELEPHONE COMPANY, a Delaware Corporation:  
6 |

7 | W I T N E S S E T H :

8 | WHEREAS, CENTRAL TELEPHONE COMPANY, a corporation  
9 | organized and existing under and by virtue of the laws of the  
10 | State of Delaware, and duly qualified and authorized to transact  
11 | a public utility business within the State of Nevada, is engaged  
12 | in the business of operating a telephonic communication system  
13 | within the CITY OF LAS VEGAS, State of Nevada; and

14 | WHEREAS, the CITY OF LAS VEGAS is a municipal corpora-  
15 | tion duly incorporated within the State of Nevada, and authorized,  
16 | pursuant to the Charter of the City of Las Vegas and applicable  
17 | provisions of general laws of the State of Nevada, to enter into  
18 | this franchise agreement; and

19 | WHEREAS, the CITY OF LAS VEGAS has been requested to  
20 | grant the right, privilege, permission and authority to do those  
21 | acts more specifically described herein by CENTRAL TELEPHONE  
22 | COMPANY; and

23 | WHEREAS, pursuant to the requirements of Section 7.040  
24 | of the Las Vegas City Charter, the Board of City Commissioners  
25 | adopted a resolution on November 3, 1982 setting forth the nature  
26 | of the franchise, and the date, time, and place of a public  
27 | hearing for consideration of whether the franchise should be  
28 | granted to CENTRAL TELEPHONE COMPANY; and

29 | WHEREAS, this franchise agreement coming on regularly  
30 | for hearing on the 17th day of November, 1982, and it appearing  
31 | by an Affidavit of Publication that due and legal notice of the  
32 | date, time and place for consideration of the franchise agreement



1 has been given by publication of that resolution adopted by the  
2 City Commissioners in the Las Vegas Review Journal, a newspaper  
3 of general circulation in the CITY OF LAS VEGAS, County of Clark,  
4 State of Nevada, to-wit:

5 In the issues of said newspaper published on  
6 the 8th day of November, 1982 and the 12th  
7 day of November, 1982;

8 and

9 WHEREAS, the Board of City Commissioners of the CITY OF  
10 LAS VEGAS, State of Nevada, in the exercise of its lawful power  
11 has determined that it is to the best interests of the inhabitants  
12 of the CITY OF LAS VEGAS that a franchise be granted subject to  
13 the terms and conditions hereinafter set forth.

14 NOW, THEREFORE, in consideration of the premises and of  
15 the performance by CENTRAL TELEPHONE COMPANY of the conditions  
16 hereinafter set forth, the Board of City Commissioners of the  
17 CITY OF LAS VEGAS, State of Nevada, hereby grants the following  
18 franchise, as hereinafter more fully described, to CENTRAL  
19 TELEPHONE COMPANY, subject to the following terms and conditions:

20 SECTION 1: DEFINITIONS. Wherever in this instrument  
21 the following words and phrases are used, they shall have the  
22 respective meaning assigned to them in the following definitions:

23 (A) "CITY" means CITY OF LAS VEGAS, NEVADA, a municipal corporation  
24 of the State of Nevada in its present incorporated form or  
25 in any subsequent consolidated, reorganized, enlarged or  
26 reincorporated form.

27 (B) "GRANTEE" means CENTRAL TELEPHONE COMPANY and its lawful  
28 successors or assigns and its partners, fellow joint venturers,  
29 associates, subcontractors, officers, employees or other  
30 agents.

31 (C) "FRANCHISE" means the right and privilege, authority and per-  
32 mission hereinafter more particular described.

- 1 (D) "PUBLIC ROAD" means the public highways, streets, roads,  
2 alleys, avenues, easements, including easements reserved for  
3 road and public utility purposes, in any patent granted by  
4 the United States of America, ways and public places as the  
5 same now or may hereafter exist within the CITY, including  
6 state highways now or hereafter established within the CITY  
7 to whatever extent the CITY may have jurisdiction to authorize  
8 the use of same for the purposes herein specified.
- 9 (E) "INSTALLING, MAINTAINING AND USING" means to lay, construct,  
10 erect, install, operate, maintain, use, repair, relocate,  
11 replace, improve, extend, enlarge or remove.
- 12 (F) "TELEPHONE COMMUNICATION SYSTEM" means the poles, towers,  
13 supports, wires, conductors, cables, guys, studs, platforms,  
14 crossarms, braces, transformers, insulators, conduits, ducts,  
15 vaults, manholes, meters, cut-outs, switches, communication  
16 circuits, appliances, attachments, appurtenances and any  
17 other property located, or to be located in, upon, along,  
18 across, under, or over the streets of the CITY and used or  
19 useful in the transmission or distribution of telephonic  
20 communications.
- 21 (G) "TELEPHONIC COMMUNICATIONS" means any communications as  
22 authorized pursuant to the authority of the Public Service  
23 Commission of Nevada, the Federal Communications Commission  
24 or any other regulatory authority.

25 SECTION 2: GRANT OF FRANCHISE. The CITY hereby grants  
26 to the GRANTEE the franchise to install, maintain and use a  
27 telephone communication system in, upon, along, across, or above,  
28 over and under the public roads within the incorporated boundaries  
29 of the CITY for which it holds a certificate of public convenience  
30 and necessity issued by the Public Service Commission of the State  
31 of Nevada.

32 SECTION 3: GRANT RESTRICTIONS. Nothing contained in

1| this franchise agreement shall be construed as authorizing the  
2| GRANTEE to use, or permit the use of, any portion of its telephone  
3| communication system for any purpose other than those reasonably  
4| necessary for the transmission or distribution of telephonic  
5| communications unless prior written approval is obtained from the  
6| CITY. No privilege or exemption is granted by or to be inferred  
7| from this franchise agreement except those specifically described  
8| herein. Any right, privilege, permission or authority claimed  
9| under this franchise agreement in any public road shall be subor-  
10| dinate to any prior lawful occupancy of the public road.

11|           SECTION 4: NON-EXCLUSIVITY OF GRANT. The franchise  
12| granted by this agreement is not exclusive, and the CITY hereby  
13| reserves the right, power and authority to grant similar rights,  
14| privileges, permission and authority to any person(s), firm(s) or  
15| corporation(s) at any time and from time to time.

16|           SECTION 5: TERM. This franchise agreement shall commence  
17| on the date the City Commission for the CITY OF LAS VEGAS, NEVADA  
18| adopts an ordinance granting to the GRANTEE a franchise for the  
19| transmission and distribution of telephonic communications to  
20| users within the incorporated boundaries of CITY, incorporating  
21| the terms and conditions as provided herein, and shall continue  
22| in full force and effect to and including the first regularly  
23| scheduled meeting of the City Commission in the month of November  
24| 2032, or until the franchise agreement shall be forfeited for  
25| non-compliance by the GRANTEE with the terms and conditions imposed  
26| herein, or with such reasonable restrictions, limitations and regu-  
27| lations as the Board of City Commissioners may from time to time,  
28| by ordinance and after due notice and public hearing, impose, or  
29| until the State of Nevada, or other public corporation thereunto  
30| duly authorized shall purchase, by voluntary agreement, or shall  
31| condemn and take, under the power of eminent domain in accordance  
32| with the existing law, all property actually used and useful in

1 the exercise of said franchise situate within the CITY or until the  
2 GRANTEE shall permit its corporate existence to expire without  
3 renewal, whichever of the foregoing shall first occur, but said  
4 franchise shall not terminate solely by reason of merger, sale or  
5 other consolidation whereby a successor to the GRANTEE assumes the  
6 obligations of the GRANTEE hereunder.

7 SECTION 6: FORFEITURE CLAUSE. Except for causes beyond  
8 the reasonable control of GRANTEE, if GRANTEE fails, neglects or  
9 refuses to comply with any of the conditions and obligations imposed  
10 hereunder, and if such failure, neglect or refusal continues for  
11 more than thirty (30) days after written demand from the CITY to  
12 commence the correction of such non-compliance on the part of the  
13 GRANTEE, the CITY shall have the right to revoke and terminate  
14 this franchise agreement in addition to any other right or remedy  
15 provided by law.

16 No provision herein made for the purposes of securing  
17 enforcement of the terms and conditions of the franchise hereby  
18 granted shall be deemed to be an exclusive remedy or to afford the  
19 exclusive procedure for the enforcement of said terms and condi-  
20 tions, but the remedies herein provided are deemed to be cumulative.

21 CITY reserves the right to waive any specific breach  
22 of the terms and conditions imposed herein and such waiver shall  
23 not be deemed to be continuous with respect to any future breaches  
24 on the part of the GRANTEE.

25 In the event the GRANTEE is adjudged bankrupt, insolvent  
26 or placed in receivership, the CITY may terminate the rights,  
27 privileges, permission and authority granted hereunder.

28 SECTION 7: QUALITY OF USE AND MAINTENANCE. GRANTEE  
29 agrees that all of its telephone communication system within the  
30 incorporated boundaries of CITY shall be installed, used and main-  
31 tained in a good, workmanlike manner and in accordance with good  
32 engineering practices, and in compliance with all applicable laws,

1 ordinances, rules and regulations of the United States, the State  
2 of Nevada, and the CITY, from time to time in effect.

3 The GRANTEE further agrees that the installation, use  
4 and maintenance of its telephone communication system, including  
5 but not limited to, all poles and transmission lines shall be  
6 attached and secured, or otherwise constructed and maintained, in  
7 such a manner as to avoid unreasonable danger to persons and  
8 property and as to cause minimum interference with the proper use  
9 of public roads or with any reasonable use and enjoyment of adja-  
10 cent property by its owners.

11 SECTION 8: LOCATION. Prior to the installation, con-  
12 struction, extension, replacement or relocation of any portion of  
13 the telephone communication system, GRANTEE shall apply for and  
14 obtain a permit from the CITY except in the following instances:  
15 (i) new subdivisions if the subdivision plans show the location  
16 of the telephone communication system and have been approved by  
17 the CITY, (ii) any repairs to the existing telephone communication  
18 system if such repairs do not involve any hindrance to, or obstruc-  
19 tion of, pedestrian or vehicular traffic, or involve the relocation  
20 of existing telephone poles. Any excavations on the part of the  
21 GRANTEE within the CITY'S right of way shall require issuance of  
22 a permit from the CITY.

23 The installation, use and maintenance of the GRANTEE'S  
24 telephone communication system within the incorporated boundaries  
25 of the CITY shall be in a manner so as not to interfere with the  
26 placement, construction, use and maintenance of municipal street  
27 lighting, water pipes, drains, sewers, traffic signal systems or  
28 other municipal systems that have been, or may be, authorized by  
29 the Board of City Commissioners, acting either as the governing  
30 body of the CITY, or as the governing body of any special district  
31 or entity, now or hereafter created for any purpose.

32 SECTION 9: CITY RESERVATIONS. Nothing in this or any

1 prior franchise agreement shall be construed to vest in the GRANTEE  
2 any right or interest in any public road located within the incor-  
3 porated boundaries of the CITY even though such location was  
4 previously approved by the CITY.

5           The CITY reserves the right to lay, construct, erect,  
6 install, use, operate, repair, replace, remove, relocate, regrade,  
7 widen, realign or maintain any public roads or any surface or  
8 subsurface improvements, including but not limited to, water mains,  
9 traffic signal conduits, sanitary or storm sewers, subways, via-  
10 ducts, bridges, underpasses or overpasses, within the incorporated  
11 boundaries of the CITY.

12           The GRANTEE shall, at its own expense, remove, relocate  
13 or reconstruct any portion of its telephone communication system as  
14 requested in writing from the CITY so as to accommodate any of the  
15 aforementioned rights reserved by the CITY.

16           In the event the GRANTEE fails to complete removal, re-  
17 location, realignment or reconstruction within a reasonable time,  
18 or that time agreed to by the parties, the CITY shall have the  
19 option to (i) remove, relocate, realign or reconstruct the portion  
20 of the telephone communication system which the CITY requested  
21 removal, realignment or reconstruction, or (ii) charge the GRANTEE  
22 and the GRANTEE hereby agrees to pay, as liquidated damages and  
23 not as a penalty the sum of ONE HUNDRED DOLLARS (\$100.00) for each  
24 day beyond a reasonable time, or that time agreed to by the parties,  
25 for the removal, relocation, realignment or reconstruction of the  
26 telephone communication system. GRANTEE agrees to obtain a permit  
27 as required under Section 8 of this agreement. Nothing in this  
28 paragraph shall make GRANTEE liable for any delays caused by factors  
29 beyond its control.

30           The CITY reserves the right to use GRANTEE'S overhead  
31 distribution system poles within the incorporated boundaries of the  
32 CITY provided that such use does not damage or interfere with



1 GRANTEE'S needs and does not violate safety codes applicable to  
2 the distribution system. This use will be limited to street light  
3 circuits and low voltage signal or communication circuits.

4 SECTION 10: REPAIR. If in the installation, use or  
5 maintenance of the GRANTEE'S telephone communication system, damage  
6 or disturbance occurs to the surface or subsurface of any public  
7 road or adjoining property or to any public or private improvement  
8 located thereon, the GRANTEE shall repair or replace, in as good  
9 order and condition as existed prior thereto, at its own expense,  
10 the damage or disturbance caused by the GRANTEE as promptly as  
11 reasonably possible from completion of the installation, use or  
12 maintenance of the telephone communication system.

13 SECTION 11: SERVICE INTERRUPTION. Whenever it is  
14 necessary to shut off or interrupt services for the purpose of  
15 installing, maintaining or using any of its communication lines,  
16 the GRANTEE shall do so at such time as will cause the least amount  
17 of inconvenience to its customers, within the normal day time  
18 working hours of the GRANTEE, and unless such interruption is  
19 unforeseen and immediately necessary, it shall give reasonable  
20 notice thereof to its customers.

21 SECTION 12: HOLD HARMLESS. The GRANTEE shall, at its  
22 own expense and throughout the term of this franchise agreement,  
23 indemnify, defend and hold harmless the CITY, and any of its  
24 officers and employees, from any and all claims, demands, actions,  
25 damages, decrees, judgments, attorney fees, costs and expenses  
26 which the CITY, or such officer or employee, may suffer, or which  
27 may be recovered from, or obtainable against the CITY, or such  
28 officer or employee, as a result of, by reason of, or arising out  
29 of the installation, use or maintenance by the GRANTEE of its  
30 telephone communication system, or the exercise by the GRANTEE of  
31 any or all of the rights, privileges, permission and authority  
32 conferred herein, or as a result of any alleged act or omission

1 on the part of the GRANTEE in performing or failing to perform  
2 any of its obligations under this franchise agreement. CITY will  
3 furnish to GRANTEE all information in its possession related to  
4 such claims, demands or actions, and will cooperate with GRANTEE  
5 in GRANTEE'S defense of such claims, demands or actions. However,  
6 the GRANTEE is not liable and is not required to indemnify or  
7 hold harmless the CITY for any claims, demands, actions, damages,  
8 decrees, judgments, attorney fees, costs and expenses resulting  
9 from the negligence of any agents, servants and/or employees of  
10 the CITY.

11 SECTION 13: COMPLIANCE WITH LAWS. The GRANTEE shall  
12 comply with all the rules and regulations prescribed by the Public  
13 Service Commission with regard to the Certificate of Public Conven-  
14 ience and Necessity granted, including but not limited to, the  
15 filing of the rates to be charged for telephone services. GRANTEE  
16 further agrees to comply with all ordinances of the CITY presently  
17 in effect or hereafter adopted, applicable to and affecting the  
18 rights and privileges conferred by this franchise agreement. In  
19 the future, if either party wishes to alter or amend this franchise,  
20 they must have the agreement of the other party to do so. Both  
21 parties agree that any changes will be in conformity with the  
22 laws of the CITY and any other jurisdictions concerned.

23 The Board of Commissioners of the CITY reserves the  
24 right to legislate concerning the use by the GRANTEE of the public  
25 roads for the public welfare or the protection of the public  
26 interest at any time hereafter upon such notice to the GRANTEE as  
27 may be required by state law or CITY ordinance and an opportunity  
28 for the GRANTEE to be heard.

29 SECTION 14: NON-TRANSFERABILITY. This franchise agree-  
30 ment and the rights, privileges, permission and authority granted  
31 herein are personal to the GRANTEE. GRANTEE shall not sell,  
32 transfer, assign, lease or otherwise dispose of, in whole or in

1 part, voluntarily or involuntarily, any of the rights, privileges,  
2 permission or authority granted pursuant to the provisions of  
3 this franchise agreement without the prior consent of the CITY  
4 expressed by resolution of the Board of City Commissioners, and  
5 any attempt thereof shall be void. Such consent shall not be  
6 unreasonably withheld by the CITY.

7           SECTION 15: PERFORMANCE BOND. GRANTEE shall file and  
8 maintain a faithful performance bond in favor of the CITY in the  
9 sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) to guarantee  
10 that GRANTEE shall well and truly observe, fulfill and perform  
11 each and every term and condition of the franchise granted herein,  
12 and guaranteeing the liquidated damages as set forth herein. In  
13 case of any breach of any condition of the franchise, any amount  
14 of the sum made in the bond up to the whole thereof may be  
15 receivable from the principal and sureties upon said bond to  
16 compensate CITY for any damages it may suffer by reason of such  
17 breach. Said bond shall be acknowledged by GRANTEE as principal  
18 and by a corporation licensed by the Insurance Commissioner of  
19 the State of Nevada to transact the business of a fidelity and  
20 surety insurance company as surety, and approved by the CITY.

21           SECTION 16: BREACH. In the event that a forfeiture  
22 is declared as provided under Section 6 of this franchise agreement,  
23 it shall be deemed a failure to perform on the part of the  
24 GRANTEE, and the CITY may proceed against the performance bond  
25 provided for in Section 15 of this agreement. It is agreed by  
26 and between the parties that the CITY will be damaged in an  
27 amount and to an extent not reasonably foreseeable or calculable,  
28 and, that, therefore, the CITY shall be entitled to the sum of  
29 FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) as liquidated damages  
30 and not as a penalty, which sum shall be covered by the bond  
31 required to be posted by the GRANTEE.

32           SECTION 17: PUBLICATION EXPENSE. GRANTEE agrees to

1 reimburse the CITY for all publication costs related to the  
2 granting of this franchise agreement within thirty (30) days  
3 after the CITY furnishes to GRANTEE a written statement of the  
4 costs.

5           SECTION 18: RIGHT OF ACQUISITION. The franchise hereby  
6 granted shall not in any way or to any extent impair or affect  
7 the right of the CITY to acquire the property of the GRANTEE  
8 through the exercise of the right of eminent domain, and nothing  
9 herein contained shall be construed to contract away or to modify  
10 or to abridge the CITY'S right to exercise the power of eminent  
11 domain. In the event that the CITY chooses to exercise its power  
12 of eminent domain, it shall do so in accordance with the procedures  
13 provided by the general law of the State of Nevada for the condem-  
14 nation of public utility property. The valuation of such property  
15 for condemnation purposes shall be made in accordance with such  
16 general law.

17           SECTION 19: TERMINATION OF JURISDICTION. This franchise  
18 agreement shall cease to apply to any public road if and when the  
19 CITY ceases to be obligated to maintain such public road. In the  
20 event that the CITY ceases to have jurisdiction over a public  
21 road, GRANTEE is subject to relocation of all or any of its  
22 telephone communication system located along said public road at  
23 the expense of the property owner, except for CITY property, as  
24 provided in Section 9. Nothing in this franchise agreement shall  
25 be construed as to prohibit or restrict payment to the GRANTEE  
26 from the State of Nevada for relocation of all or any portion of  
27 the GRANTEE'S telephone communication system pursuant to the  
28 provisions of N.R.S. 408.943.

29           SECTION 20: CONTRIBUTIONS. No officer or employee  
30 of the GRANTEE shall offer to any officer or employee of the  
31 CITY, either directly or indirectly, any rebate, contribution,  
32 gift, money, service without charge, or other thing of value

1 whatsoever, unless permitted by law and given with the consent  
2 and approval of the CITY, except where given for the use and  
3 benefit of the CITY.

4 SECTION 21: VALIDITY. If any section, subsection,  
5 sentence, clause, phrase, word or other portion of this franchise  
6 is held invalid, unenforceable or unconstitutional, such section,  
7 subsection, sentence, clause, phrase, word or other portion will  
8 be deemed a separate, distinct and independent provision and such  
9 holding shall not affect the validity of the remaining provisions  
10 hereof.

11 SECTION 22: The parties hereto agree that this Fran-  
12 chise Agreement was executed within the State of Nevada and shall  
13 be governed and interpreted according to the laws of the State of  
14 Nevada.

15 IN WITNESS WHEREOF, the parties hereto have set their  
16 hands the day and year first hereinabove written.


17 CITY OF LAS VEGAS, NEVADA,  
18 a Municipal Corporation

19  
20 ATTEST:

21   
22 WILLIAM H. BRIARE, Mayor

21   
22 Carol Ann Hawley, City Clerk

23  
24 CENTRAL TELEPHONE COMPANY,  
25 a Delaware Corporation

26  
27 By   
28  
29  
30  
31  
32

## AMENDMENT TO FRANCHISE AGREEMENT

This Amendment to Franchise Agreement ("Amendment") is made and entered into this 16<sup>th</sup> day of July, 2014, by and between the CITY OF LAS VEGAS, a municipal corporation of the State of Nevada (the "City") and CENTRAL TELEPHONE COMPANY d/b/a CenturyLink ("CenturyLink"). The City and CenturyLink will hereafter be referred to individually as a "Party" or collectively, as "Parties."

### RECITALS

WHEREAS, the City Council of the City of Las Vegas, Nevada ("City") and Central Telephone Company d/b/a CenturyLink ("CenturyLink") entered into a Franchise Agreement dated November 17, 1982 ("Agreement") that, among other things, granted to CenturyLink the right, privilege, permission and authority to install, maintain and use a communications system in, upon, along, across, above, over and under City public roads; and

WHEREAS, CenturyLink approached the City to explore enhancing its fiber network in the City in an effort to improve Internet access in the City and to foster new high-speed applications; and

WHEREAS, City has a direct interest in improving the quality of life of its citizens through improvements to important infrastructure within its boundaries; and

WHEREAS, City recognizes that improved access to high-speed Internet services is a key infrastructure improvement for the City and its citizens for the 21st century; and

WHEREAS, the City and CenturyLink have agreed to reference CenturyLink's 1 Gbps service in this Agreement solely with respect to the City's jurisdiction over its rights-of-way. The installation methods being approved by the City in this Agreement are specifically related to the ability of CenturyLink to provide 1 Gbps service in the City as a result of the placement of its facilities in the City rights-of-way. The City has jurisdiction over its rights-of-way, and the placement of CenturyLink's facilities in the rights-of-way is controlled by the Agreement and this Amendment; and

WHEREAS, it is recognized that the City has a primary obligation in ensuring that work requirements, within public rights-of-way are not unreasonably burdensome for all parties; and

WHEREAS, it is acknowledged by both the City and CenturyLink that the proposed placement methodologies are a substantial deviation from standard utility placement practices; and

WHEREAS, in the event CenturyLink does not comply with Section 7A.9 and 7A.11 of this agreement, it is acknowledged by both the City and CenturyLink that this agreement, as it relates to micro-trenching, shall supersede, as permitted by law, any governing state or local

ordinances or local policies as such laws and rules relate to repair of utility components in accordance with “dig-safe” policies and procedures; and

WHEREAS, CenturyLink and City desire to work together to further all of these goals and in order to do so, the City and CenturyLink desire to amend the Agreement to more expeditiously get services to citizens.

NOW, THEREFORE, upon due consideration, including, but not limited to, all of the rights and responsibilities under the Agreement, and as further set forth herein, the Parties agree as follows:

## AGREEMENT

1. A new Section 7A shall be added to the Agreement as follows:

### **Section 7A GBPS NETWORK**

CenturyLink has announced plans to supplement its fiber network in the City, in an effort to improve Internet access and foster new-high speed applications through broadband Internet services. CenturyLink anticipates engaging in commercially reasonable efforts to design, incrementally construct and install a fiber network within the City to provide, among other things, a broadband Internet service offering upload and download speeds of up to 1 Gbps. The Parties agree that deployment of such a service by CenturyLink would materially advance the goals of the City. Specific items related to the design and construction of network facilities that will support CenturyLink’s offering of 1 Gbps service (the applicable network facilities are referred to hereafter as the “1 Gbps Network”) are included in this section. The City and CenturyLink have agreed to reference CenturyLink’s 1 Gbps service in this Agreement solely for context purposes. The City has jurisdiction over its rights-of-way, but does not have jurisdiction with respect to the 1 Gbps service, except to the extent that the placement of facilities in the City’s rights-of-way is controlled by the Agreement and this Amendment.

#### **7A.1 Network Design and Construction**

This section applies to facilities constructed in the rights of way related to CenturyLink’s 1 Gbps Network. CenturyLink will use commercially reasonable efforts to design, incrementally construct and install facilities in the rights of way used for its 1 Gbps Network. In constructing its 1 Gbps Network, CenturyLink shall be entitled to use installation methods set forth in the Agreement, as amended herein, including micro-trenching in accordance with the terms of this section and subject to final permit approval, if specifically required herein, from the appropriate City representative for each specific installation. This section applies only to the construction of underground facilities for the 1 Gbps Network.

CenturyLink shall be allowed to use non-standard methods described in this section only in residential streets within City public rights of way as residential streets are described in Las Vegas Municipal Code (“LVMC”) Title 13. Micro-trenching will not be allowed on any other City public rights of way, even if fronted by residential housing. This section

does not prohibit alternative methods of installation on private streets consistent with the provisions of Section 7A.12.

### **Section 7A.2 Specific Process/Procedures for construction and installation of the 1 Gbps Network**

In connection with the construction and installation of CenturyLink's 1 Gbps Network, CenturyLink agrees to work cooperatively with the City to minimize adverse impacts to City streets. The following process/procedures apply to the construction and installation of CenturyLink's 1Gbps Network:

**Permit Submittal:** CenturyLink may be allowed to submit a permit application electronically by electronic mail ("E-Mail"), provided that standard fees are paid in advance, and that all required plans and other documents must accompany the applications submitted by E-mail. Permits will be issued only to CenturyLink, and will not be issued directly to contractors or other agents of Century Link.

**Response Medium:** The City may grant or deny the permit application electronically by E-mail.

**Permit Duration:** Permits issued for construction of the 1Gbps Network expire after 180 calendar days or as otherwise agreed to by the Parties. Permits not closed within the allotted time period will be subject to resubmittal in accordance with applicable standard procedures and fees.

**Applicable Permit Area:** The City may agree to issue permits based on a neighborhood or subdivision.

**Response Time:** The City shall respond to CenturyLink's permit application within 20 calendar days of submittal.

**Permit communication:** The City will work with CenturyLink in assigning a single point of contact within the City with respect to the permits relating to the 1 Gbps Network.

**Traffic Control Plans:** Standard City traffic control plans may apply to the permit area.

**Inspections:** The City agrees to work with CenturyLink to expeditiously inspect facilities constructed for the 1 Gbps Network, however CenturyLink shall follow applicable City inspection procedures regarding the scheduling of inspections.

**Plans:** CenturyLink shall provide as-built location of its facilities with coordinates which shall be based on the official horizontal and vertical control networks of the City of Las Vegas in the same manner as other construction methods.

**7A.3 Construction Methods** In addition to any construction process that may be permitted by City Code and the Agreement, CenturyLink may use micro-trenching as described herein, and the Parties may agree upon additional trench processes and



methodologies in the future with a modification to this Amendment approved by the City Council.

**7A.3(a)** Micro-trenching for purposes of this Agreement shall be described as use of conduit with a slot no less than 2" below the bottom of the existing asphalt pavement.

**7A.4 Restoration** Subject to the provisions of Section 7A.9 and 7A.11, in the event of any damage to CenturyLink's facilities related to Grantee's 1 Gbps Network in the rights of way, CenturyLink will make all necessary repairs to the damaged facilities and restore service to its customers.

**7A.5 Trench patching and backfill methods**

**7A.5(a)** The City's Public Works Director and CenturyLink will agree upon an approved backfill that will be placed level and struck flush to the asphalt. The trench patch will be no wider than 3", or the current standard width for applying crack sealer, whichever is greater.

**7A.5(b)** On a roadway where the micro-trenching is done pursuant to this Agreement, CenturyLink will respond to the City within 48 hours of being notified by the City that a Citizen, or the City, has a complaint regarding the trench patch.

**7A.5(c)** To the extent the City believes the trench patch is not consistent with Subsection (a) above, CenturyLink will work with the City to address the concerns with the trench patch.

**7A.5(d)** If CenturyLink and the City are unable to resolve an issue relating to the trench patch as set forth in Subsection (c) above, the City may take action consistent with LVMC 13.44.010, but in no event shall the City require CenturyLink to do any more than slurry the trench patch and the immediate area around the patch as agreed to by the City and CenturyLink. CenturyLink shall not be required to slurry the trench patch and the immediate area around the patch on a roadway that will be resurfaced within 18 months from completion of the installation.

**7A.6 Traffic loops** CenturyLink does not expect to cut traffic loops in the installation, but if any damage does occur, CenturyLink will immediately notify the City upon discovery, and CenturyLink will be responsible for paying for the repairs.

**7A.7 Electronic location** Facilities in the rights of way related to CenturyLink's 1 Gbps Network will contain a locate wire or other systems, as approved by the Public Works Director, to locate its facilities.

**7A.8** Unless otherwise agreed to by the Public Works Director, standard 5-year "no-cut" policies and procedures apply.

**7A.9** CenturyLink shall defend, indemnify and hold the City harmless from and against all claims for damages that the City may cause to facilities constructed pursuant to this section, as well as any claims or actions asserted by any third party against the City for any damages as a result of CenturyLink's construction pursuant to this Amendment. This indemnification shall survive any expiration or termination of this Amendment or Agreement. To the extent CenturyLink does not notify a third party excavating in the rights-of-way about the depth of a micro-trench facility in accordance with Section 7A.11, and the third party follows applicable call before you dig standards, CenturyLink will be responsible for damage to its micro-trench facility, but in other circumstances the third party will be responsible to repair and be liable for damage to CenturyLink's facilities in the same manner as if the facility was placed using standard construction methods.

**7A.10** Micro-trenching installations will not be allowed in sidewalk, curb, gutter, valley gutter, or driveway apron.

**7A.11** Where CenturyLink installs facilities pursuant to micro-trenching as permitted by this section, it will work with the Nevada Regional Common Ground Alliance ("NRCGA") or other organization mutually agreed to by the Parties to develop a distinct marking for micro-trench facilities. Until such organization establishes a procedure for marking micro-trench facilities, CenturyLink can notify third party excavators about the depth of such facilities by indicating these are high priority facilities. On a high priority facility, the third party excavator shall contact CenturyLink to discuss its facilities, and CenturyLink can identify the depths of the micro-trench facility at that time.

Subject to Sections 7A.9 and this Section, CenturyLink acknowledges that it will be responsible for all maintenance associated with its 1 Gbps Network placements and for any and all repair costs for their infrastructure consistent with applicable sections of the City Code that address these issues. Any pavement failures or damage to any improvements within the right-of-way as a result of the work performed by CenturyLink, shall be repaired by CenturyLink consistent with applicable sections of the City Code.

**7A.12** Prior to any non-standard construction of the 1Gbps Network in private streets, CenturyLink will provide the City with written approval from the private home owner's association ("HOA") or other governing body that owns such streets ("Street Owner"), and such approval will evidence an agreement between the Street Owner and CenturyLink, that the Street Owner agrees to any installation method not otherwise permitted by City Code or this Amendment, and will provide the City with as-built drawings. Further, the City acknowledges that CenturyLink is not required to get a permit for work done in private streets.

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2. Except as otherwise set forth above, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have set their hands the day and year set forth below.

CENTRAL TELEPHONE COMPANY d/b/a CenturyLink

By: 

R. Steven Davis

Its: EVP-Public Policy & Government Relations

Date: 7/1/2014

CITY OF LAS VEGAS

By: 

CAROLYN G. GOODMAN, Mayor

ATTEST:

  
BEVERLY BRIDGES, MMC, City Clerk

APPROVED AS TO FORM:

  
JAMES B. LEWIS  
DEPUTY CITY ATTORNEY