#5

OCT 10 2016

ORDINANCE NO. 4715

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, MARICOPA COUNTY, ARIZONA, APPROVING QWEST BROADBAND SERVICES, INC, D/B/A/ CENTURYLINK, A CABLE TELEVISION LICENSE AGREEMENT AND CLASS 6 CABLE TELEVISION AND RELATED SERVICES LICENSE FOR THE CITY OF CHANDLER.

WHEREAS, the City of Chandler ("City") is authorized to grant, renew, deny and terminate Licenses for the installation and maintenance of Cable Systems and otherwise regulate cable television within the City's boundaries by virtue of federal and state statures, but the City's police powers, by its authority over its public rights of way, and by other City powers and authority to establish a Class 6 Cable Television and Related Services License (hereinafter "Agreement"); and

WHEREAS, the Chandler City Council approved Ordinance No. 2890 granting a License to US West Communications, Inc., subsequently Qwest Broadband Services, Inc., (hereinafter "Licensee"), a 15-year non-exclusive cable television license effective November 7, 1998, and Licensee requests to renew the license; and

WHEREAS, CenturyLink, a Colorado corporation, owns and operates a telephone network (the 'Telecommunications Facilities") in the Right-of-Way to provide telephone service but does not deliver cable television signals over the Telecommunications Facilities. The purpose of this Agreement is to allow Licensee to use the right-of-way to deliver cable television signals ("Cable Service") over CenturyLink's Telecommunications Facilities; and

WHEREAS, the Chandler City Council has determined that it is in the best interest of, and consistent with, the convenience and necessity of the City of Chandler to authorize the approval of a Cable Television License Agreement between the City and Licensee; and

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AS FOLLOWS:

Section 1: The Mayor and the City of Chandler City Council hereby approves-the Cable Television License Agreement between the City of Chandler and Cox Communications Arizona, LLC, a Delaware Limited Liability Company.

Section 2: That the Mayor is authorized to execute this Agreement and establish a Class 6 Cable Television and Related Services License as applicable and to establish Fees.

Section 3: That all officers and employees of the City of Chandler shall perform all administrative and ministerial acts to carry out the authorization set forth in this Ordinance.

Section 4: This Ordinance shall become effective 30 days from and after its final adoption and at which time the Agreement shall be executed; provided, however, that the agreement hereby granted shall not become effective unless and until Licensee has accepted said agreement as

provided herein and has carried out such other terms and conditions as may be required before said agreement shall become effective.

INTRODUCED AND TENTATIVELY ADOPTED by the City Council of the City of Chandler, Maricopa County, Arizona, this ___ day of _____, 2016.

ATTEST: MAYOR:

_____ _____

CITY CLERK JAY TIBSHRAENY

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this ____ day of _____, 2016.

ATTEST: MAYOR

_____ _____

CITY CLERK JAY TIBSHRAENY

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4715 was duly passed and adopted by the City Council of the City of Chandler, at a regular meeting held on the ____ day of _____, 2016 and that a quorum was present thereat.

_____

City Clerk

Published:

APPROVED AS TO FORM:

_____

CITY ATTORNEY

QWEST BROADBAND SERVICES, INC.
d/b/a/ CENTURYLINK

CITY OF CHANDLER

CABLE TELEVISION LICENSE AGREEMENT

Effective as of November 7, 2013

TABLE OF CONTENTS

Page

1. Definitions 2
2. Grant of Authority; Term 3
3. License Fees 4
4. City Channels 5
5. Services to the City 7
6. Required Service; System Design and Capacity 8
7. Changes in Cable Technology 8
8. Area Served and Line Extensions 9
9. Service Drops 10
10. Construction Requirements and Technical Standards 10
11. Emergency Service 10
12. Use of Streets and Public Ways 10
13. Service Provisions 12
14. Inspection of Records 13
15. Insurance 13
16. Performance Bond 13
17. Letter of Credit 14
18. Liquidated Damages 14
19. Notice of Violation; Right to Cure or Respond 15
20. Effect of Expiration, Revocation or Termination of License 15
21. Transfers 15
22. Controlling Authorities 16
23. Licensee's Representations and Warranties 17
24. Adjudicated Dispute Fees and Costs 17
25. Confidentiality 17
26. Conflict of Interest 17
27. General Provisions 17

CABLE TELEVISION LICENSE AGREEMENT

This Cable Television License Agreement (the "Agreement" or "License") is made and entered into effective as of the 7th day of November, 2013, by and between the City of Chandler (the "City") and QWEST Broadband Services, Inc., d/b/a/ CenturyLink, ("Licensee"), a corporation organized and existing under the laws of the State of Delaware.

RECITALS

A. Pursuant to federal, state and local law, including Chapter 46, Division V of the Chandler City Code, the City is authorized to grant, renew, deny, and terminate licenses for the installation, operation, and maintenance of Cable Systems and otherwise regulate Cable Services within the City boundaries by virtue of federal and state statutes, by the City's police powers, by its authority over its public rights-of-way, and by other City powers and authority.

B. WHEREAS, the Chandler City Council approved Ordinance No. 2890 granting a License to US West Communications, Inc., subsequently Qwest Broadband Services, Inc, a 15-year non-exclusive cable television license effective November 7, 1998; and

C. WHEREAS, the Cable License will remain with Qwest Broadband Services, Inc, d/b/a/ CenturyLink; even though CenturyLink, Inc. acquired Qwest Communications International, Inc. (QCII) on April 1, 2011 which included terms for Qwest Broadband Services, Inc. to remain an indirect subsidiary of QCII, which became a wholly-owned, first-tier subsidiary of CenturyLink; and

D. Licensee and the City desire to enter into a new license to provide Cable Television Services within the City to take effect upon the expiration of the Existing License.

C. The City has reviewed Cable Service in the City, including but not limited to a review of Licensee, Licensee's record of service in the City, Licensee's Facilities, the cable-related community needs of the City for both the present and future, Licensee's ability to carry out its commitments, and Licensee's overall financial, legal, and technical qualifications to hold a license from the City.

D. Based on such review, the City hereby finds that it would serve the public interest to grant a license on the terms and conditions hereinafter set forth, and Licensee agrees to obtain a license under these conditions.

AGREEMENT

In consideration of the foregoing recitals, which are incorporated herein by reference, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows.

1. **Definitions**. The definitions set forth in Chapter 46 of the Chandler City Code are applicable to this Agreement. In addition:

Affiliate means an entity that is related to the Licensee by shareholdings or other means of control: a subsidiary, parent, or sibling corporation

Cable System means Licensee's facility in the license area, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include (1) a facility that serves fewer than fifty subscribers; (2) a facility that serves Subscribers without using any public Right-of-Way; (3) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (4) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the federal Communications Act (47 U.S.C. 201 et seq.), except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (5) an open video system that complies with 47 U.S.C. 573; or (6) any facilities of any electric utility used solely for operating its electric utility systems.

Confidential Information means any and all technical data marked Confidential, materials marked Confidential, reports marked Confidential, and other information marked Confidential owned by or developed by, or on behalf of Licensee and/or its Affiliates, any information marked Confidential that relates to the Cable System, and any and all financial data marked Confidential and information marked Confidential relating to Licensee's business, that Licensee discloses in writing, visually, or through some other media, or that the City learns or obtains through observation, analysis, compilation, or other study of such information, data, or knowledge provided that is marked as Confidential, except any portion thereof that (a) is known to the City at the time of the disclosure, as evidenced by its written records and was not acquired by the City on a confidential basis; (b) is disclosed to the City by a third party having a right to make such disclosure; (c) becomes published, or otherwise publicly known through no fault of the City; or (d) is independently developed by or for the City without use of Confidential Information disclosed hereunder as evidenced by its written records.

Customer means Subscriber.

Demarcation Point means the physical point at which the Cable System enters a Subscriber's home or building.

Living Unit means a distinct address in Qwest Corporation's network inventory data base including but not limited to single family homes, multi-dwelling units (e.g., apartments and condominiums), government facilities and business locations.

QC means Qwest Corporation d/b/a CenturyLink ("QC"), an Affiliate of Licesnsee.

Qualified Living Unit means a distinct address in the QC network inventory database, including but not limited to single family homes, multi-dwelling units, and business locations, that meets the minimum technical qualifications defined by Licensee for provision of Cable Service.

2. **Grant of Authority;Term**.

2.1. The City hereby grants to Licensee the right and authority to operate a Cable System in the City and for that purpose to erect, install, solicit, construct, repair, replace, rebuild, reconstruct, maintain, and retain in, on, over, upon, across, and along any Streets and Public Ways such poles, wires, cable fiber optics, conductors, ducts, conduit, vaults, manholes, pedestals, amplifiers, appliances, attachments, power supplies, network reliability units, and

other property or equipment as may be necessary or appurtenant to the Cable System; and, in addition, so to use, operate, and provide similar facilities or properties rented or leased from other Persons, including but not limited to any public utility or other entity licensed or permitted to do business in the City.

2.2. This License is subject to the provisions of Chapter 46 of the Chandler City Code. Licensee is required to comply with all of the provisions of Division V, Cable Television and Related Services and other applicable provisions of Chapter 46 and Chapter 47 of the Chandler City Code. Nothing in this License Agreement shall require Licensee to obtain a Fiber Optic License in connection with Facilities of its Cable System.

2.3. During the six (6) month period which begins the thirty sixth (36) month before the license expiration the requirements of Chandler City Code Section 46-8.12 shall govern and if neither party elects the proceeding described, the City may renew the License for an additional two (2) years if, at the end of the third year after the Effective date, Licensee offers Cable Services to twenty per cent (20%) or more of the Living Units in the City of Chandler for the previous twelve (12) months and duly notifies the City with reasonable documentation; and an additional two (2) years, if, at the end of the sixth year after the Effective Date, Licensee offers Cable Services to 50% of the number of Living Units in the City of Chandler as of and duly notifies the City with reasonable documentation.

2.4. Competitive Parity.

2.4.1. Licensee's right to use and occupy the Streets and Public Ways in the City for the purpose herein provided shall not be exclusive. However, the City agrees not to allow any person to enter into the Streets and Public Ways for the purpose of constructing or operating a Cable System, or for the purpose of providing Cable Service or video programming service to any part of the License Area, including by means of an "open video system" (as such term is defined in the Cable Act), without first obtaining a permit, license, authorization, or other agreement from the City or such other governmental entity then entitled to grant such permit, license, authorization, or other agreement.

2.4.2. The material provisions of the agreement under which any competitor is authorized to enter the Streets and Public Ways shall be reasonably comparable to those contained herein.

2.5. Prior Occupancy. Any privilege claimed under this License by Licensee in any Street and Public Way or other public property is subordinate to any (a) prior or subsequent lawful occupancy or use thereof by the City or any other governmental entity, (b) prior lawful occupancy or use thereof by any other Person, and (c) prior easements therein; provided, however, that nothing herein extinguishes or otherwise interferes with property rights established independently of this License.

2.6. Term. This grant of authority runs for a term of fifteen (15) years, effective as of midnight on November 8, 2013 and ending at 11:59 p.m. on November 7, 2028.

3. **License Fees**

3.1. Fees, Costs and Payments will be subject to the provisions of Chapter 46-8.8 of the Chandler City Code.

3.2. License Fee. Licensee shall pay to the City License Fees in an amount equal to five percent (5%) of Licensee's Gross Revenues during the term of this License. Licensee acknowledges that the City may elect to appropriate the first one hundred thousand dollars ($100,000) of each year's License Fees for the operation of the Public, Education and Government Channels provided for in Section 4 of this Agreement.

3.3. License Fees Audit and Underpayment/Overpayment.

3.3.1. The City is authorized to inspect and audit the records of Licensee pursuant to Chapter 46 of the Chandler City Code. If a City audit shows overpayments, City shall pay Licensee the overpaid amount as provided in Chapter 46 of the Chandler City Code. If Licensee determines in an internal audit that it overpaid License Fees, Licensee shall not take any offset for such overpayment(s) against License Fees without notifying the City and proposing a commensurate schedule for recoupment from subsequent quarterly payments of License Fees, without interest. If a City audit or an internal audit shows any underpayment, Licensee shall pay any underpayment within thirty (30) Days and interest shall apply at one percent (1%) per month from the date the amount was due.

3.3.2. Within fifteen (15) Days after notice from Licensee that it contests an audit determination of License Fees under this Section of the Agreement, the City will treat the notice as an appeal pursuant to Chandler City Code Sections 1-7, 46-8.17 through 46-8.21 as applicable.

4. **City Channels**.

4.1. City Channels. Licensee will provide the City the channel capacity for two (2) channels of public, educational or governmental access programming as required by federal and state law in the Basic Service tier of the Cable System and two (2) channels of noncommercial governmental programming in the digital programming tier of the Cable System.

4.2. Government Channel. Licensee shall continue to make available in the Basic Service Tier at no charge to the City one (1) channel on the Cable System designated as a Government Channel to be used by City government officials and agencies. The Government Channel is for use by the City for non-commercial, informational programming regarding government activities and programs.

4.3. Education Channel. Licensee shall continue to make available in the Basic Service tier at no cost to the City one (1) channel on the Cable System designated as an Education Channel. The Education Channel shall be used by the City for non-commercial, informational programming regarding educational activities and programs.

4.3.1. The operation of the Educational Access channel shall be the responsibility of the Educational Access Governing Board ("EAGB") or educational institution designated by the City to act as the EAGB which shall represent all elementary and secondary school districts, all colleges, and all private non-profit school systems as established by the Licensor. EAGB sets general policy on use of the educational access channel.

4.3.2. The executive committee of the EAGB, consistent with the rules and policies adopted by the EAGB, may arrange to utilize the facilities, equipment and personnel available for community programming to produce and program the educational access channel. These

facilities, equipment and personnel shall be provided at cost to users approved by the EAGB or the executive committee.

4.4. Digital Channels.

4.4.1. Public Safety Channel. Within one hundred twenty (120) days of written request by the City, Licensee shall make available in the digital programming tier at no cost to the City one (1) Public Safety Channel for downstream use by the City fire/police departments. At no cost to the City, Licensee shall secure the audio and video portions of the signal delivered over the Public Safety Channel so that the signal may only be received by specially-equipped converters.

4.4.2. Additional Digital Channel. Within one hundred twenty (120) days of written request by the City, Licensee shall make available in the digital programming tier at no cost to the City one (1) channel to be designated as a secured Government, Public Service or Education Channel for use by the City for non-commercial, informational programming regarding government or educational activities and programs.

4.4.3. Converters. If specially-equipped converters or additional secured transmission equipment is needed for the Public, Educational, Government, Public Safety Channel or for any additional secured Government or Public Safety Channel is needed to be viewed in a municipal building, said converters or other equipment, shall be provided free of charge as set forth in Section 5.

4.4.4. High Definition Signals. At which time High Definition signals are made available to any CenturyLink PEG Channels, the City may at its sole discretion require CenturyLink to carry up to all of the PEG Channels in high definition ("HD") format. For purposes of this Agreement, HD format shall mean a display resolution of at least 720 lines (progressive) that is supported by CenturyLink on the Cable System, including the CenturyLink terminal device(s) provided to Subscribers for HDTV use. If CenturyLink supports more than one such resolution, the City shall specify which of those supported by CenturyLink shall be used for PEG Channels. CenturyLink will be responsible for any costs from the transmission point into their system on its side of the point of demarcation. The City will be responsible for any costs to broadcast HD programming.

4.5. Point of Origin. The City Channels shall each originate from a studio designated by the City within the corporate limits of the City. Licensee shall establish the connection to the Cable System necessary for each of the City Channels to originate from this location at no cost to the City. Licensee shall incur costs and expenses on its side of the point of demarcation to provide, maintain and operate facilities and equipment of the cable television system, including facilities and equipment for signal carriage, processing, reformatting and interconnection:

a: To connect the cable television system, as it may be relocated from time to time, to transmit programming to and from existing locations of public, educational or governmental access facilities and to allow monitoring of access programming at the facilities; and

b: To transmit public, educational and governmental access channels to subscribers with the same prevailing quality, functionality and identification as other channels.

4.6. Maintenance of Equipment. Licensee shall provide at no charge, and with no offset to Cable License Fees, to the City prompt and regular periodic maintenance and replacement of any cables, amplifiers, and other distribution equipment owned by Licensee and used for the City Channels. The City shall provide and operate and maintain at its expense all other equipment and facilities necessary for operation of the City Channels. If Licensee makes changes to the Cable System that require improvements to the primary and secondary access Facilities or equipment in order to permit the City Channels access equipment and facilities to continue to be used as they were intended under the terms of this License, then Licensee shall, without charge or cost to the City nor with an offset to the License Fee, make such changes in either the equipment and facilities referred to in this Section or in the Licensee's video channel aggregation point and distribution equipment and facilities in order to permit the continuation of such intended use.

4.7. Downstream Programming from Another City or Town. If the City elects to receive downstream programming from another city or town served by Licensee above and beyond what they have in place at the execution of this License, the City shall pay all costs incurred by Licensee in providing for the City to receive such programming. The City must obtain the necessary consents from the city or town that originated the programming before Licensee takes any steps to provide the City with such programming.

4.8. Location of Channels. Licensee may, in its sole discretion, determine the tier and channel location of the City Channels and the method for delivering these channels over the Cable System; provided that any decision that changes the locations of City Channels locations will be made in consultation with the City, and Licensee will use its best efforts to give a reasonable period of notice not less than ninety (90) Days. Licensee will provide at no charge to the City notice of the changed location channel in its printed or online materials as designated in the Subscriber Service Standards in Section 46-8.11(E)(2)(c) of the Chandler City Code within the time periods specified for notice to Subscribers.

4.9. On Demand Content. Upon written request from the City, Licensee shall work with the City to place reasonable amounts of educational or governmental content (as determined by Licensee) on Licensee's network in the form of "on demand" programming. This "on demand" programming will be made available only during such time as one or more of the City Channels is inactive and shall contain programming that would have been suitable for display on the inactive City Channel(s).

5. **Services to the City**.

5.1. Service to City and Public School Buildings.

5.1.1. In order to monitor compliance of the License provisions, Licensee will provide Service (including one set top box) to: the Cable License Administrator's office (Regulatory Affairs Manager), the Video Production Studio of the Government Access Channels, and the Video Production Studio of the Educational Access Channel. This level of service may include both Basic and Digital tiers if there are PEG channels on both levels.

5.1.2. Upon written request from the City, at no charge to the City, Licensee shall provide Licensee's Basic Service tier and one set top box to additional City Buildings and to public schools provided that such building is a Qualified Living Unit and no other provider will

also be providing Cable Service to that location. Absent a showing by Licensee to the City Manager of unusual circumstances, which may include without limitation street crossings or plant extensions, Service to any City Buildings that are Qualified Living Units shall be accomplished within ten (10) Days of the written request for service or, if later in the case of a City Building not owned by the City, after owner's execution of any necessary easement documents.

6. **Required Service; System Design and Capacity**.

6.1. System Design. Licensee's video network is fully integrated with QC's telephone network and uses an Ethernet-based, switched digital video service (not a QAM-based broadcast system).

6.2. The Cable System as installed shall provide the following services and shall possess the following technical capabilities:

(a) Subscriber Network. The Cable System shall have a fully activated capability to provide Broadcast Quality services of equal quality to those provided over a traditional 750 MHz or higher hybrid fiber coaxial Cable System.

(b) High Definition Capability. Licensee shall make available high definition (HD) capability to all Subscribers in Chandler in accordance with applicable industry standards. The Subscriber is responsible for any additional equipment costs in order to get HD services. This Section does not apply to the provisions set forth in Section 4.4.4 of this Agreement.

7. **Changes in Cable Technology**.

7.1. Periodic Meetings. The City and Licensee will meet periodically but at least every three (3) years or upon the written request of either to discuss changes in cable television laws, regulations, technology, competing services, the needs of the community, and other factors impacting cable television. As a result of these discussions, this License may be modified by mutual agreement of the City and Licensee to respond to a change in laws, regulations, technology, competing services, the needs of the community, or other factors affecting cable television.

7.2. Certain Conditions. If any of the following conditions occur, and upon written request of either Licensee or the City, the City Manager and Licensee will meet and discuss in good faith the terms of a mutually agreeable amendment to this License:

7.2.1. Cable Service similar to the Cable Service offered by Licensee is provided by any competitor that is not subject to similar licensing requirements of the City; or

7.2.2. Any other significant event occurs, including but not limited to changes of federal or state law or a final non-appealable order or judgment by a court of competent jurisdiction, which either the City or Licensee believes may affect the current terms and conditions of this License.

7.3. Purpose. The purpose of the meetings set forth in this Section is to use best efforts to reach mutually acceptable agreement for recommendation to the City Council for proposed action on amendments to this License to relieve the City or Licensee from any

commercial impracticability that arises during the term of this License. This Section 7 is intended to facilitate a process whereby the parties may reach a mutually acceptable agreement to amend this License but does not require that this License be amended.

8. **Area Served and Line Extensions**.

8.1.1. Subject to Section 9.1, Licensee shall provide service to Qualified Living Units within the jurisdictional boundaries of the City, including any areas annexed by the City during the term of this Franchise. Licensee will ensure that its service is not denied to any group of potential residential cable subscribers because of the income or any other unlawful discriminatory factors related to the residents of the local area in which such group resides.

8.1.2. Licensee shall not have a line extension obligation until the first date by which Licensee is providing Cable Service to more than fifty percent (50%) of all subscribers receiving cable service from both the Licensee any other provider(s) of cable service within the City. At that time, the City, in its reasonable discretion and after meeting with Licensee, shall determine the timeframe to complete deployment to the remaining households in the City, including a density requirement that is the same or similar to the requirement of the incumbent franchised cable provider. Licensee shall not arbitrarily refuse cable services to a person, firm or corporation in the existing cable service area; however, Licensee is not required to provide cable service to any Subscriber who does not pay the applicable cable service charge.

8.1.3. Licensee promises and guarantees, as a condition of exercising the privileges granted by this License, that any Affiliate of the Licensee directly involved in the offering of Cable Service in the City or directly involved in the management or operation of System in the City, will also comply with the obligation of this License. However, the parties acknowledge that Qwest Corporation ("QC"), and affiliate of Licensee and an indirect wholly-owned subsidiary of CenturyLink, Inc., will pull permits and be primarily responsible for the construction and installation of the facilities in the Public right-of-way, which will be utilized by Licensee to provide Cable Services, and QC will own, operate and maintain all such Facilities not installed by Licensee. So long as QC does not provide Cable Service to Subscribers in the City, QC will not be subject to the terms and conditions contained in this License pertaining to Cable Services. QC's installation and maintenance of Facilities in the Public right-of-way are governed by applicable law. The parties also acknowledge that if and when QC does provide Cable Services to Subscribers, QC will need to get a separate cable license from the City. To the extent Licensee constructs and installs facilities in the public right-of-way, such installation will be subject to the terms and conditions contained herein.

9. **Service Drops**.

9.1. Standard Drop. Licensee shall provide Cable Services upon valid request, from any person in the City who resides in a Qualified Living Unit within seven (7) business days. A request shall be deemed placed on the date of signing a service agreement, receipt of funds by Licensee, or receipt by Licensee of a verified verbal or written request.

10. **Construction Requirements and Technical Standards**. Licensee shall construct, install, operate, and maintain its system in a manner such that it operates at all times consistent with applicable laws, construction standards of the City, and FCC Rules and Regulations,

Part 76 SubPart K (Technical Standards), as amended from time to time. In addition, the City may at any time conduct independent measurements of the Cable System.

11. **Emergency Service.** In accordance with the provisions of FCC Rules and Regulations Part 11, Subpart D, Section 11.51(h)(1), as they may from time to time be amended, Licensee shall install and maintain an Emergency Alert System and shall transmit all Emergency Act Notifications and Emergency Act Terminations relating to local and state-wide situations as may be designated to be an emergency by the Local Primary, the State Primary and/or the State Emergency Operations Center, as those authorities are identified and defined within FCC Rules and Regulations, Part 11.

12. **Use of Streets and Public Ways.**

12.1. Location of Licensee's Property. Any poles, wires, cable lines, conduits, or other properties of Licensee to be constructed or installed in Streets and Public Ways shall be so constructed or installed only at such locations and in such manner approved by the City consistent with the City's technical and permitting regulations. Licensee or its authorized contractors will obtain any required permits before any physical work is done in the City's rights-of-way or on City-owned property.

12.2. City Authority to Regulate Construction. City has the authority to regulate the time or location of construction to assure and preserve effective traffic flow, prevent hazardous road conditions, and to minimize notice impacts or any other public purpose.

12.3. Undergrounding.

12.3.1. Licensee shall place all of its new Facilities underground. No underground Facilities may be moved to poles. Licensee may not install any poles.

12.3.2. Subject to later undergrounding as required in this Section 12.3, Licensee may replace existing aerial Facilities with Facilities that are no larger in cross-section than the existing aerial Facilities and for which Licensee shall obtain all applicable necessary construction permits. Nothing contained in this Section 12.3 requires Licensee to construct, operate, and maintain underground any ground-mounted appurtenances such as Subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, stand-by and other power supplies, network reliability units, pedestals, or other related equipment.

12.3.2.1. Where aerial Facilities of other utilities in the same span are placed underground, Licensee shall concurrently (or earlier) place its existing aerial Facilities underground.

12.3.2.2. Such undergrounding shall be at Licensee's own expense, except to the extent that (i) public funds are designated specifically to compensate Licensee therefor or (ii) third-party (such as but not limited to a developer) funds are made available to compensate Licensee therefor. That one or more other utilities with prior existing rights to the Streets and Public Ways are eligible for and granted public funds because they hold prior rights shall not entitle Licensee to specific designation of public funds for changes required by undergrounding.

12.3.3. All new underground wires or cable placed by Licensee after the effective date of this License shall be placed in conduit except for service drops. Service drops shall be installed pursuant to the standards set forth in the City of Chandler Utility Permit Manual.

12.4. Changes Required by Public Improvements. Licensee shall comply with Section 46-8.12(M) of the Chandler City Code. Any removal or relocation made thereunder shall be paid for by Licensee, except to the extent that (i) public funds are designated specifically to compensate Licensee therefor or (ii) third-party (such as but not limited to a developer) funds are made available to compensate Licensee therefor. That one or more other utilities with prior existing rights to the Streets and Public Ways are eligible for and granted public funds because they hold prior rights shall not entitle Licensee to specific designation of public funds for changes required by public improvements.

12.5. Street Repair. If Licensee causes damage to pavement, sidewalks, driveways, landscaping, or other property during construction, installation, or repair of its Facilities, Licensee or its authorized agent shall replace and restore such places in compliance with Chandler City Code Section 46-8.12(P).

12.6. Permitting.

12.6.1. For all permits applied for by Licensee, the City agrees to act timely and in any event in accordance with any timelines established by the City for permit issuance. Where changes are identified by Licensee after the issuance of a permit and during the construction phase, Licensee shall apply for a permit revision if required by the City.

12.6.2. On application, the City shall grant Licensee an Annual Maintenance Permit ("AMP"). The AMP shall authorize Licensee access to its existing Facilities and shall be on parity with permits granted to other utilities and shall be negotiated on an annual basis between Licensee and the City consistent with the City of Chandler Utility Manual.

12.6.3. On application, the City shall grant Licensee an Annual Emergency Permit ("AEP"). The AEP shall authorize Licensee emergency access to its existing Facilities and shall be on parity with permits issued to other utilities and shall be negotiated on an annual basis between Licensee and the City consistent with the City of Chandler Utility Permit Manual.

13. **Service Provisions**.

13.1. Service Standards. Licensee shall at all times satisfy applicable FCC customer service standards, as amended from time to time by the FCC and comply with Section 46-8.11 of the Chandler City Code as now in effect.

13.2. Complaint Procedures. Licensee shall comply with the following Subscriber Complaint procedures.

13.2.1. Licensee shall ensure that all Subscribers and general citizens have recourse to a satisfactory process to submit complaints. Licensee shall respond to all Subscriber Complaints within a reasonable time.

13.2.2. Licensee shall establish and maintain a written log listing all Subscriber Complaints received by the Licensee's Customer Advocacy Group. The

written log shall include the name and telephone number, if given, of the Person making the complaint and Licensee's action on the complaint. The log shall be maintained by Licensee for three (3) years and, to the extent permitted by federal law, shall be available to the City Manager or his/her designee for inspection upon request.

13.2.3. Licensee shall provide, in writing, upon request of the City Manager, details from its written log relating to any Subscriber Complaint.

13.2.4. Licensee shall timely reply to the City about any general citizen complaint that the City refers to Licensee.

13.3. Subscriber Solicitation Procedures.

13.3.1. All Licensee personnel, agents, and representatives, including subcontractors, shall wear a cable uniform or clearly display a photo-identification badge when acting on behalf of Licensee in the City.

13.3.2. Licensee shall afford each Subscriber of the Cable System a three (3)-Day right of rescission for ordering installation of Cable Service from the Cable System provided that such right of rescission will end when physical installation of Cable System equipment on such Subscriber's premises begins.

13.4. Rights of Individuals. Licensee may not deny Cable Service, deny access, or otherwise discriminate against Subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, sex, age, or disability; provided, however, that Licensee may not be required to provide Cable Services to any Person who is not in a Qualified Living Unit or does not pay the applicable, fees and/or Cable Service charge(s). Licensee shall comply at all times with all other applicable federal, state, and local laws and regulations, as amended from time to time, relating to nondiscrimination.

14. **Inspection of Records**.

14.1. Inspection of Records. Upon reasonable notice, Licensee shall permit any duly authorized representative of the City to examine any and all financial records kept or maintained by Licensee or under its control that reasonably relate to Licensee's accurate payment of License Fees.

14.2. Scope of Information. Unless otherwise specified, all of Licensee's recordkeeping and disclosure obligations include and are limited to information that reasonably relate to Licensee's accurate payment of License Fees. This does not include personally identifiable Subscriber information without the Subscriber's consent in violation of Section 631 of the Cable Communications Policy Act of 1984, as amended, 47 U.S.C. § 551.

14.3. Maps. Licensee shall at all times make and keep full and complete plans and records showing the exact location of all of Licensee's Cable System equipment installed or in use in Streets and Public Ways, and other places in the City and make them available to the City for review upon request. Upon request, Licensee shall provide the City Manager route maps or sets of maps drawn to scale, showing the location of Licensee's underground and above ground Facilities. Upon request, the City and Licensee shall provide the other with route maps or sets of

maps drawn to scale, showing the location of their respective underground and above ground Facilities.

15. **Insurance**. Licensee shall maintain in full force and effect, at no cost and expense to the City, during the term of this License, commercial general liability insurance in the amount of five million dollars ($5,000,000) combined single limit for bodily injury and property damage. The City shall be designated as an additional insured. Such insurance will not be cancelable except upon thirty (30) Days prior written notice to the City. Upon written request, Licensee shall provide a certificate of insurance showing evidence of the coverage required by this Section. Licensee may self-insure the above-described policy coverages if Licensee or its parent is of sufficient financial standing to provide such insurance.

16. **Performance Bond.**

16.1. Within thirty (30) business days of the Effective Date of this License, Licensee shall file and maintain until termination of this Agreement, a performance bond in favor of City in the sum of at least Two Hundred Thousand Dollars ($200,000.00) to ensure Licensee's faithful performance of its obligations imposed by this License. The performance and shall provide the following conditions:

16.1.1 There shall be recoverable by the City from the principal and surety, any and all fines and penalties due to the City and any and all damages, losses, costs, and expenses suffered or incurred by the City resulting from the failure of the City to faithfully comply with the material provisions of this License and other applicable law; comply with all orders, permits and directives of any agency or body having jurisdiction over its acts or defaults; pay fees due to the City; or pay any claims or liens due the City. Such losses, costs and expenses shall include but not be limited to reasonable attorneys' fees and other associated expenses.

16.1.2 The performance bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety nor the intention to renew by stated by the surety until sixty (60) days after receipt by the City, by registered mail, return receipt requested of a written notice of such intent to cancel or not to renew."

16.2. The bond shall be issued by a company authorized to do business in the State of Arizona and found to be acceptable by the City Attorney.

16.3. The bond shall remain in effect for the entire term of this License.

17. **Letter of Credit**.

17.1. Amount; Purpose. Within thirty (30) Days after the effective date of this License, Licensee shall deposit with the City an irrevocable letter of credit in an amount not to exceed ten thousand dollars ($10,000) (replenishable as specified in Section 17.3 below) issued by a federally insured commercial lending institution. The form and substance of said letter of credit will be used to assure (a) the faithful performance by Licensee of all provisions of this License; (b) compliance with all orders, permits, and directions of any Department of the City having jurisdiction over Licensee's acts or defaults under this License; and (c) Licensee's payment of

any penalties, liquidated damages, claims, liens, and taxes due to the City that arise by reason of the construction, operation, or maintenance of the Cable System, including cost of removal or abandonment of any of Licensee's property.

17.2. Drawing on Letter of Credit. The letter of credit may be drawn upon by the City by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the City Manager certifying that Licensee has been found, pursuant to Sections 20 through 23 below, to have failed to comply with this License, stating the nature of noncompliance, and stating the amount being drawn. The rights reserved to the City with respect to the letter of credit are in addition to all other rights of the City, whether reserved by this License or authorized by law, and no action proceeding against a letter of credit will affect any other right the City may have.

17.3. Replenishing. The letter of credit shall be structured in such a manner so that if the City at any time draws upon the letter of credit, upon notice to Licensee by the issuing lending institution, Licensee shall immediately increase the amount of available credit by the amount necessary to replenish that portion of the available credit exhausted by the honoring of the City's draft; provided, however the maximum amount available to be drawn on this letter of credit for any one event shall not exceed ten thousand dollars ($10,000). The intent of this Section is to make available to the City at all times a letter of credit in the amount of ten thousand dollars ($10,000).

18. **Liquidated Damages.**

18.1. Licensee understands and agrees that failure to comply with any time and performance requirements as stipulated in this License Agreement or in Chapter 46 of the Chandler City Code will result in damage to the City and it is impracticable to determine the actual amount of such damage in the event of delay or nonperformance.

18.2. Licensee agrees to the liquidated damages set forth below and chargeable to the Letter of Credit based on the following:

1. Failure to provide a cable connection within the time(s) set forth in Chapter 46 of the Chandler City Code and/or this Licensing Agreement – fifty dollars ($50) a Day;

2. Failure to properly restore the public Right-of-Way or to correct related violations of specifications, code, or standards after having been notified by the City to correct such defects – six hundred dollars ($600) a Day;

3. Failure to comply with Subscriber service standards of these Licensing Requirements – one hundred fifty dollars ($150) a Day;

4. Failure to test, analyze and report on the performance of the Cable System following a written request – one hundred fifty dollars ($150) a Day;

5. Failure to provide in a continuing manner the type of services proposed in the accepted Application, renewal Proposal, or License, unless the City Council specifically approves modification of a Licensee's obligation – five hundred dollars ($500) a Day;

6. Failure to cure any violation of Customer Service Standards in Chapter 46 of the Chandler City Code, following notice and an opportunity to cure pursuant to the provisions of that Section -- one hundred fifty dollars ($150) a Day; and

7. Any other material breach by the Licensee, as agreed upon between the City and Licensee, and set forth in the License -- one hundred fifty dollars ($150) a Day.

19. **Notice of Violation; Right to Cure or Respond**. In the event that the City believes that Licensee has not complied with the terms of this License, the City shall informally discuss the matter with Licensee. If these discussions do not lead to resolution of the issue, the City shall notify Licensee in writing of the exact nature of the alleged noncompliance. Licensee shall have thirty (30) Days from receipt of the notice of violation: (a) to respond to the City, contesting the assertion of noncompliance; (b) to cure such default; or (c) if, by the nature of default, such default cannot be cured within the thirty (30)-Day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

20. **Effect of Expiration, Revocation or Termination of License**.

20.1. Continuity of Service. It is the right of all Subscribers to continue receiving Cable Service as long as their financial and other obligations to Licensee are honored. If this License expires or terminates, Licensee shall cooperate with the City to ensure continuity of Cable Service to all Subscribers for a period not to exceed ninety (90) Days. Said period may be extended by written agreement between the City and Licensee. During such period, Licensee shall be entitled to the revenues for operating the Cable System.

20.2. Other Services. Upon expiration, revocation, or termination of this License for any reason, Licensee shall have one hundred eighty (180) Days from the date of expiration, revocation, or termination to enter into good faith negotiations with the City or other governmental authority to obtain a license, permit, or other approval or agreement that may then lawfully be required in order to allow Licensee to continue using Licensee's Facilities in the Streets and Public Ways for any lawful service other than Cable Service that Licensee may then provide over its Facilities in the License Area.

20.3. Holding Over. In any circumstance whereby Licensee would continue to occupy the Streets and Public Ways after the expiration of this Agreement, such holding over shall be deemed to operate as a renewal or extension of this Agreement on a month-to-month basis that may be terminated at any time by the City upon sixty (60) Days' written notice to Licensee, or by Licensee upon sixty (60) Days' written notice to the City.

21. **Transfers**.

21.1. Prior Consent. Except as otherwise provided in Section 46-8.5 of the Chandler City Code, Licensee's right, title, or interest in this License may not be sold, transferred, assigned, or otherwise encumbered.

21.2. Grant, Rent, or Lease. As long as a grant, rent, or lease of all or a portion of the Cable System does not amount to a transfer, Licensee in the normal course of providing Cable Services or other telecommunication services may grant, rent, or lease use of the Cable System to other Persons. Any such use shall be restricted to and consistent with such uses as Licensee is

authorized in this License or under other applicable law. Any such use shall be in compliance with applicable federal and state law. No such grant, lease, or rent by Licensee will, however, relieve Licensee of any requirement or obligation under this License as to its use of the Streets and Public Ways. The City shall be notified of any such grant, rental, or lease if the use of the portion of the Cable System is or will be for Cable Services or for any activity for which a license fee is applicable.

22. **Controlling Authorities**.

22.1. Local Ordinances. Licensee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations placed upon Licensee that are contained in this License. In the event of a conflict between any ordinance or Chandler City Code provision and this License, this License shall control.

22.2. Federal and State Laws. This License is subject to and shall be governed by all requirements of the Cable Act as amended from time to time, of Arizona Revised Statutes §§ 9-505 through 9-510, as amended from time to time, and of other federal and state laws and regulations governing cable communications as amended from time to time. In a conflict between the terms and conditions of this License and the terms and conditions on which the City can grant a license, federal and state law shall control.

23. **Licensee's Representations and Warranties**.

23.1. Authority. Licensee represents and warrants that it has the power and authority to enter into this License by and through the representative who has signed this License on its behalf, and that it has the power and ability to do all the acts required of it by this License.

23.2. Misrepresentation. Licensee has not misrepresented or omitted material facts, has not accepted this License with intent to act contrary to the provisions herein, and represents and warrants that, as long as it operates the Cable System, it will be bound by the terms and conditions of this License or a subsequently issued license.

23.3. Attorneys. Licensee further acknowledges that it was represented throughout the negotiations of this License by its own attorneys and had opportunity to consult with its own attorneys about its rights and obligations regarding this License.

24. **Adjudicated Dispute Fees and Costs**. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees.

25. **Confidentiality**. This Agreement is subject to the Arizona Public Records Law, A.R.S. § 39-121 et seq. The City will provide notice as promptly as practical to Licensee of any public records request made which includes Confidential Information provided to the City. Licensee shall have five (5) business days to obtain relief in the form of an order from the Maricopa County Superior Court or, only in a case where a question of federal law is presented the United States District Court for the District of Arizona setting forth what Confidential Information is not subject to disclosure pursuant to the Arizona Public Records Law or all Information provided by Licensee including Confidential Information will be disclosed without liability or obligation by the City. The City will not initiate, support, represent or defend, or be responsible for any legal

action to prevent disclosure of any Confidential Information or other information provided by owner whether marked "Confidential" or not. Nor will City be liable for attorneys' fees and/or any other costs or expenses of any nature whatsoever in directly or indirectly asserting or directly or indirectly defending the right of Licensee to keep any Confidential Information from public disclosure pursuant to the Arizona Public Records Law.

26. **Conflict of Interest**. Licensee acknowledges that this License is subject to A.R.S. § 38-511.

27. **General Provisions**.

27.1. Filings. When not otherwise prescribed herein, all matters that this License requires to be filed with the City shall be filed with the office of the City Clerk.

27.2. Force Majeure.

27.2.1. Licensee shall not be held in default under, or in noncompliance with, the provisions of this License, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation, or revocation of this License) where such alleged noncompliance or default occurred or was caused by an act of God, an act or omission of governmental military or civilian authority, strike or lockout, riot, epidemic or quarantine, war, earthquake, fire, flood, tidal wave, unusually severe rain, wind, or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, terrorist acts, governmental, administrative or judicial order or regulation or other circumstances that could not have been avoided through Licensee's exercise of reasonable care, prudence and diligence. This provision includes work delays caused by waiting for utility providers to service or monitor their own above-ground or underground facilities to which Licensee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

27.2.2. Furthermore, the parties hereby agree that it is not the City's intention to subject Licensee to penalties, fines, forfeitures, or revocation of the License for so-called "technical" breach(es) or violation(s) of this License, which include but are not limited to the following: (i) in instances or for matters where a violation or a breach by Licensee of the License was good faith error that resulted in no or minimal negative impact on the Subscribers within the License Area or (ii) where strict performance with the terms of the License would result in practical difficulties and hardship to Licensee that outweigh the benefit to be derived by the City and/or Subscribers.

27.3. Governing Law; Venue. The provisions of this License are subject to applicable federal law, including but not limited to the Cable Act and the rules, regulations, and orders of the FCC, and are also subject to Arizona law not in conflict with such federal law. In the event of any conflict between the provisions of this License and such state or federal law, the provisions of such state or federal law shall prevail. Proper venue is in the Superior Court of Maricopa County or the United States District Court for the District of Arizona.

27.4. Amendments. This License may be modified only through a written amendment executed by authorized persons for both parties. Any such changes, including unauthorized written amendments, shall be void and without effect.

27.5. Severability. If any Section, sentence, paragraph, term, or provision of this License or any ordinance, regulation, law, or document incorporated herein by reference is held to be illegal, invalid, unconstitutional, or unenforceable, by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions hereof all of which shall remain in full force and effect for the term of this License.

27.6. Notice. Unless otherwise provided for in this License, all notices to be given hereunder shall be given in writing and may be hand delivered or given by certified first class mail, postage prepaid addressed to the parties at the addresses set forth below. Such notices will be deemed served and effective when delivered to the designated persons listed below during ordinary business hours or on the date of delivery by U.S. Mail registered or certified return receipt requested.

To Licensee:	QWEST Broadband Services, Inc. d/b/a CenturyLink 1801 California St., 10th Floor Denver, CO 80202
With a copy, which is not notice, to:	QWEST Broadband Services, Inc. d/b/a CenturyLink 20 East Thomas Rd., 1st Floor Phoenix, AZ 85012
To the City:	City of Chandler Mail Stop 403 PO Box 4008 Chandler, Arizona 85244-4008 Attn: Regulatory Affairs Manager
With a copy, which is not notice, to:	City of Chandler Mail Stop 602 PO Box 4008 Chandler, Arizona 85244-4008 Attn: City Attorney

Licensee and the City are required to notify the other party of any changes to the foregoing information within fifteen (15) Days of any change.

27.7. Headings. The headings contained herein are intended solely to facilitate the reading thereof. Such headings shall not affect the meaning or interpretation of the text herein.

27.8. Integration; Acquired Licenses. This License constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreement, understanding, negotiation, drafts, discussion outlines, correspondence, memoranda, or otherwise regarding the subject matter hereof. This License hereby preempts and cancels any other license agreements granted by the City that are acquired by Licensee through the purchase or acquisition of other Cable Systems and/or cable operators. Upon completion of an acquisition the terms of this License shall govern Licensee's newly acquired Cable System(s) or cable operation(s).

IN WITNESS WHEREOF, the parties have executed this License on the dates set forth below to take effect as of November 7, 2013, as specified in Section 2.6.

CITY OF CHANDLER

By: _____
Jay Tibshraeny
MAYOR

Date: _____

ATTEST:

_____
Marla Paddock, City Clerk

APPROVED AS TO FORM:

_____
Kay Bigelow, City Attorney

QWEST BROADBAND SERVICES, INC.,
A Delaware corporation d/b/a CenturyLink

By: _____
Torry R. Somers
Vice President of Video

Date: 7/21/16