

CITY OF PEORIA, ARIZONA
CABLE TELEVISION LICENSE AGREEMENT

THIS CABLE TELEVISION LICENSE AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 20____, by and between the City of Peoria, an Arizona municipal corporation ("City" or "Licensor"), and Qwest Broadband Services, Inc., a Delaware corporation doing business in Arizona as CenturyLink ("Licensee").

RECITALS

A. Licensor owns public street and alley rights-of-way and public utility easements within the boundaries of the City of Peoria (the "Boundaries") that are dedicated and set apart for use by public utility companies for installation, operation and repair of water, electrical and other public utilities pursuant to franchises, licenses or other agreements between utility companies and Licensor (collectively, the "Right-of-way").

B. Various laws (the "Cable Laws") authorize Licensor to regulate its streets, alleys and public utility easements, and to grant, renew, deny, amend and terminate licenses for the installation, operation and maintenance of cable television systems and otherwise regulate cable television systems within the Boundaries. The Cable Laws include, without limitation, the following:

- (1) Chapter 6 of the Peoria City Code (1992) as amended entitled "Cable Communications Systems" (the Cable Code).
- (2) Other applicable provisions of the Peoria City Code.
- (3) The Peoria City Charter.
- (4) A.R.S. §§9-505 through 9-510 and other state and federal statutes.
- (5) The Constitution of the State of Arizona.
- (6) Other applicable federal, state and local laws, rules and regulations.
- (7) Licensor's police powers, its authority over its public rights-of-way, and its other governmental powers and authority.

In the event of an inconsistency between the Peoria City Code and this Agreement, this Agreement will control.

C. Qwest Corporation d/b/a CenturyLink QC, a Colorado corporation ("Qwest Corporation") owns and operates a telephone network (the "Telecommunications Facilities") in the Right-of-way to provide telephone service. Qwest Corporation does not deliver cable television signals over the Telecommunications Facilities.

D. The purpose of this Agreement is to allow Licensee to use the Right-of-way to deliver cable television signals programming ("Cable Service") over Qwest Corporation's facilities (the "Permitted Uses").

E. This Agreement allows Licensee to use Qwest Corporation's Telecommunications Facilities that Qwest Corporation operates in the Right-of-Way but does not allow Licensee to own, install, operate or maintain any physical cable television distribution equipment or other physical equipment of any kind of its own in the Right-of-way or to maintain or to operate Qwest Corporation's Telecommunications Facilities in the Right-of-way, or to otherwise use the Right-of-way. This Agreement grants to Licensee a limited right to deliver Cable Service over Qwest Corporation's Telecommunications Facilities that Qwest Corporation operates and maintains. The Permitted Uses do not include any use inconsistent with this paragraph.

F. By LCON Number 12399, date December 14, 1999 the City granted certain rights via a Cable Television License ("Original License") to U S West Broadband Service, Inc., now named Qwest Broadband Services Inc.

G. Upon the expiration of the Original License, Licensee and Licensor desire to enter into a new license to allow Licensee to provide Cable Service within the Boundaries.

H. This Agreement is subject to the Cable Laws.

NOW, THEREFORE, for and in consideration of the foregoing, the amounts hereinafter to be paid by Licensee, and the covenants and agreements contained herein to be kept and performed by Licensee and other good and valuable consideration, Licensor and Licensee agree as follows:

I. DEFINITIONS

1. Definitions. For the purpose of this Agreement the definitions in Chapter 6 of the Peoria City Code apply, in addition to the definitions provided in other places in this Agreement, and the following definitions apply:

1.1. "Affiliate" means a person, entity, or company that is related to, is owned by or controlled by, or is under common control (i.e., a subsidiary, parent, or sibling corporation or any associated entity) with or controlling Licensee.

1.2 "Basic Service" means the lowest tier of Cable Service that includes, at a minimum, the retransmission of local television broadcast signals and access programming.

1.3 "Cable Act" means the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.* ("Cable Act") including any amendments.

1.4 "Code" or "Ordinance" means Chapter 6 of the Peoria City Code.

1.5 "Cable Service" means the one-way transmission to subscribers of video programming, or other programming service and subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

1.6 "Cable System" means a facility, 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 the Boundaries. This term does not include:

- (a) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

- (b) A facility that serves subscribers without using any public right-of-way;
- (c) A facility of a common carrier which is subject in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a cable television system, other than for purposes of 47 U.S.C. § 541(c), to the extent the 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;
- (d) An open video system; or
- (e) Any facilities of any electric utility used solely for operating its electric utility system.

1.7 "Customer" means subscriber.

1.8 "FCC" means the Federal Communications Commission.

1.9 "QC" means the Qwest Corporation ("QC"), an Affiliate of Licensee.

1.10 "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 for provision of Cable Service.

1.11 "Subscriber" means any customer lawfully receiving Cable Service from Licensee.

II. RIGHT-OF-WAY

2. Right-of-way. Subject to the provisions of this Agreement, and applicable laws and regulations, Licenser hereby grants to Licensee a nonexclusive revocable license to deliver Cable Service over Qwest Corporation's Telecommunications Facilities in the Right-of-way. Licensee promises and guarantees, as a condition of exercising the privileges granted by this License, that any affiliate of Licensee directly involved in the offering of Cable Services in the Boundaries or directly involved in the management or operation of the Cable System in the Boundaries will also comply with the obligations of this Agreement. The parties acknowledge, however, that Qwest Corporation, an affiliate of Licensee and wholly-owned subsidiary of CenturyLink, Inc. will be responsible for the construction and installation of the Telecommunications Facilities in the Right-of-way that will be utilized by Licensee to provide Cable Service.

However, acknowledging that Qwest Corporation, an affiliate of Licensee and an indirect wholly-owned subsidiary of CenturyLink, Inc. will pull permits and be responsible for the construction, installation, maintenance, repair and ownership of the Telecommunications Facilities in the Right-of-way that will be utilized by Licensee to provide Cable Services, so long as Qwest Corporation does not provide Cable Service to Subscribers in the Boundaries, Qwest Corporation will not be subject to the terms and conditions contained in this Agreement pertaining to Cable Services. Qwest Corporation's installation and maintenance of facilities in the Right-of-way are governed by applicable law. The parties also acknowledge that if and when Qwest Corporation provides Cable Service to Subscribers, then Qwest Corporation will need a separate cable license from the City.

Any privilege claimed under this Agreement by Licensee in any Right-of-way will be subordinate to any prior or subsequent lawful occupancy or use of the Right-of-way by the City or any other governmental entity, will be subordinate to any prior lawful occupancy or use by any other person, and will be subordinate to any easement; however, nothing in this Agreement extinguishes or otherwise interferes with property rights established independently of this Agreement.

2.1 Competitive Parity. Licensee's right to use and occupy the Right-of-way in the Boundaries for the purpose herein provided shall not be exclusive. However, the City agrees not to allow any person to enter into the Right-of-way 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 Boundaries, 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.

The material provisions of the agreement under which any competitor is authorized to enter the Right-of-way shall be reasonably comparable to those contained herein, and the obligations imposed on Licensee shall be no less burdensome nor more favorable than the obligations imposed upon such competitor, in order that one operator not be granted an unfair competitive advantage over another. In the event that a competitor is authorized to enter the Right-of-way on terms and conditions that are less burdensome or more favorable than the obligations imposed on Licensee hereunder, this License shall automatically be amended to be consistent with the terms and conditions on which the competitor is authorized to enter the Right-of-way.

III. TERM OF AGREEMENT

3. The Term of this Agreement shall be as follows:

3.1 Original License/Agreement Superseded. When this Agreement becomes effective it terminates and supersedes the Original License (except as to any unknown unperformed liabilities arising before the effective date of this Agreement).

3.2 Term. The Term of this Agreement shall run for a term of nine (9) years, effective as of midnight on _____, 2016 and shall terminate at 11:59 pm. on June 30, 2025, unless sooner terminated as set forth in this Agreement.

3.3 Holding Over. In any circumstance whereby Licensee would continue to use the Right-of-way after the expiration of this Agreement, such holding over shall not be deemed to operate as a renewal or extension of this Agreement, but shall only create a use right from month to month that may be terminated at any time by Licensor upon sixty (60) days notice to Licensee, or by Licensee upon sixty (60) days notice to Licensor subject to such other provisions that may apply under state and federal law pertaining to cable television.

3.4 Agreement Accepted. By accepting this Agreement, Licensee acknowledges having carefully read the terms and conditions of the Cable Code and this Agreement and having accepted the obligations imposed thereby. Licensee further acknowledges and certifies that none of the obligations imposed on Licensee by this Agreement or the Cable Code is individually or cumulatively commercially impracticable.

IV. LICENSEE'S PAYMENTS

4. Licensee's Payments. Licensee shall make payments to Licensor as follows:

4.1 Fee Payment Items. Licensee shall pay to the City each of the following separate and cumulative amounts (collectively the “Fee Payments”):

4.1.1 An amount (the “License Fee Payment”) comprising a certain percentage of Licensee gross revenues (the “Gross Revenue”).

4.1.2. An amount (the “Violation Fee Payment”) based on certain breaches by Licensee of this Agreement as set out below.

4.1.3. All other amounts required by this Agreement.

4.2 License Fee Payment. The License Fee Payment shall be calculated as a percentage of all revenues and other proceeds (collectively the “Gross Revenue”) from Licensee’s use of the Right-of-way as follows:

4.2.1. Applicable Percentage. The percentage used to calculate Percentage Use Fee shall be five percent (5%).

4.2.2. Gross Revenue Includes. Gross Revenue means gross revenue as defined in A.R.S. § 9-505(6).

4.2.3. Bundled Service. If Licensee offers its Customer a price discount if they obtain a bundle of Cable Service and other goods and services, then the following shall apply:

4.2.3.1 The discount shall be allocated equally among the Cable Service and other goods and services for the purposes of computing Gross Revenue

4.2.3.2 This Agreement does not authorize Licensee to offer or provide any service other than Cable Service. The bundles that this paragraph refers to are bundles that Licensee and Qwest Corporation might offer to their joint customers under a joint billing or marketing arrangement.

4.2.3.3 Licensee shall not bundle Cable Service with non-cable services in a manner that the amount of Gross Revenue attributed to Cable Service will unreasonably or significantly reduce the Use Fees payable under this Agreement.

4.3 Violation Fee Payment Amount. The amount of the Violation Fee Payment shall be the sum of various amounts (the Violation Amounts”) as hereafter described.

4.4 Other Amounts Required by Agreement. Nothing herein alters the applicable legal obligation of Licensee to bear reasonable costs that are associated with damage caused to the right-of-way by construction, maintenance and operation of its facilities. Those costs may not be offset against the License Fee Payment.

4.4.1 Licensee will pay all fines, fees, charges or damages for breach of the terms and conditions of the License.

4.4.2 If Licensee or QC requests an expedited review of any permits required for construction and inspection and City agrees to expedited review, all costs associated with expediting may not be offset against the License Fee Payment. It is within Licensors’s complete discretion as to whether or not to provide expedited review.

4.4.3 City has the inspection and audit rights described in Peoria City Code Chapter 6, Sections 6-26 (d)

4.4.4 Licensee will pay any applicable application, plan review and expedited plan review, construction permit, inspection, or other fees described in A.R.S. § 9-506(C) that Licensee may not offset against the License Fee Payment.

4.5 Fee Payment Cumulative. All items of Fee Payment shall be cumulative and separate from each other.

4.5.1. Fee Payment Schedule. All Fee Payment shall be payable quarterly in arrears on the date that is forty-five (45) days after the end of each last calendar quarter. For example, the License Fee Payment for the first calendar quarter of a year shall be payable on or before May 15.

4.6 Fee Payment Amount Report. Each installment of Fee Payment shall include a report showing the manner in which each component of Fee Payment was calculated. The report shall summarize the transaction giving rise to the License Fee Payment. When requested by Licensor from time to time, the reconciliation shall be accompanied by documentation substantiating Gross Revenue and other amounts.

4.7 Letter of Credit. Within thirty (30) days after the date of this Agreement, Licensee shall deposit with Licensor, an irrevocable letter of credit from a federally insured commercial lending institution approved by Licensor in the amount of Ten Thousand Dollars (\$10,000.00). 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 agency, commission, board, department, division, or office 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. The form and content of such letter of credit shall comply with all requirements of the City Code, particularly Section 6-83 and the remainder of this Agreement and shall be approved by the City Attorney. This letter of credit shall stand as a security deposit guaranteeing Licensee's faithful performance of this Agreement. Any portion of any security to which Licensee may then be entitled, net of any setoff or other obligation of Licensee, shall be paid to Licensee without interest by Licensor within sixth (60) days after the later of termination of this Agreement or completion of all of Licensee's obligations related to this Agreement.

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, to have failed to comply with this License including failure to cure after noticed noncompliance, 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.

4.8 Late Fees. Fee Payment is deemed paid only when Licensor actually receives good payment. Should any Fee Payment not be paid on or before the date due, a late fee shall be added to the amount due in the amount of the greater of ten percent (10%) of the amount due, or One Hundred Dollars (\$100). Furthermore, any Fee Payment that is not timely paid shall accrue simple interest at the rate of one and one-half percent (1½%) per month from the date the amount first came due until paid. Licensee expressly agrees that the foregoing represent fair and reasonable estimates by Licensor and Licensee of Licensor's costs (such as accounting, administrative, legal and processing costs, etc.) in the event of a delay in payment of Fee Payment. Licensor shall have the right to allocate payments received from Licensee among Licensee's obligations.

4.9 Fee Payment Amounts Cumulative. At amounts payable by Licensee hereunder or under any tax, assessment or other existing or future ordinance, law or other contract or obligations to the City of Peoria or the State of Arizona shall be cumulative and payable in addition to each other payment required hereunder, and such amounts shall not be credited toward, substituted for, or setoff against each other in any manner.

V. CUSTOMER AND COMMUNITY SERVICE REQUIREMENTS

5. Customer and Community Service Requirements. Licensee shall provide customer and community service as follows:

5.1 Customer Service Standards. Licensee will offer Cable Service that are equal in quality to those offered by Licensee in surrounding communities in the Phoenix and Scottsdale metropolitan area and provide equal service, mix, level and quality within all areas of the Boundaries. Should there be a failure to maintain the mix, level or quality of services within the broad categories of video programming or other services required by this License, the provisions of Chapter 6 of the Peoria City Code will apply. Licensee will comply with the more stringent of the Customer service and consumer protection provisions of this License, FCC Customer Service Standards, and Peoria City Code. Licensee shall provide customer service as follows:

5.1.1 Most Favored. Licensee shall provide customer service levels and standards of service to the Customers it serves under this Agreement consistent with the highest levels and standards of service that Licensee provides to customers within the State of Arizona.

5.1.2 Rejection of Service. Licensee shall not arbitrarily refuse Cable Service to anyone located within a Qualified Living Unit which this Agreement requires Licensee to serve. However, Licensee is not required to provide Cable Service to any Customer who does not pay applicable Cable Service charges.

5.1.3 Telephone Support. Licensee shall provide sales, billing, repair, installation, technical and other customer support by local telephone number (or toll free number) as follows:

5.1.3.1 Trained Licensee representatives will be available to respond to customer telephone inquiries during normal business hours.

5.1.3.2 After normal business hours, Licensee's customer service telephone line may be answered by a service or an automated response system, including an answering machine. A Licensee representative must respond to inquiries received after normal business hours on the next business day.

5.1.3.3 Under normal operating conditions, Licensee shall meet the following:

5.1.3.1 Ninety percent (90%) of all calls during any ninety (90) day period will be directed to an automated customer service call menu within an average of thirty (30) seconds.

5.1.3.2 Customers will receive a busy signal less than three percent (3%) of the time.

5.1.3.3 Licensee will not be required to acquire equipment or perform surveys to measure compliance with the telephone support standards above unless a historical record of compliance indicates a clear failure to comply.

5.1.4 Local Business Office. The Licensee shall maintain a business office conveniently located near or in the Boundaries for Customers to make payments and/or address billing or service-related issues. The office shall be conveniently located and shall be open during normal business hours Monday through Friday, and shall include evening and weekend hours to meet Customers' needs.

5.1.5 Field Services. Licensee shall provide installations, repairs and other field services as follows:

5.1.5.1 Under normal operating conditions, Licensee shall meet each of the following four (4) standards no less than ninety five percent (95%) of the time, measured during any ninety (90) day period:

5.1.5.1.1 Standard installations will be performed within seven (7) business days after an order has been placed, unless the Customer requests a later installation.

5.1.5.1.2 Excluding conditions beyond Licensee's control, Licensee will begin working on "service interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Licensee must begin actions to correct other service problems the next business day after notification of the service problem.

5.1.5.1.3 The "appointment window" for installations, service calls, and other installation activities will be either a specific time, or at maximum, a four (4) hour time block during normal business hours. (Licensee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the Customer.)

5.1.5.1.4 Licensee may not cancel an appointment with a Customer after the close of business on the business day prior to the scheduled appointment.

5.1.6 Late Appointments. If a Licensee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, Licensee shall contact the customer. If necessary, Licensee shall reschedule the appointment at a time convenient for the Customer.

5.1.7 Outages. Licensee shall respond to confirmed outages immediately. Licensee shall not exceed a four (4) hour average response time to outages during any consecutive three (3) months, under normal operating conditions.

5.1.8 Interruptions. Licensee shall interrupt Cable Service only for good cause and for the shortest time possible. Interruptions, insofar as possible, shall occur during periods of minimum cable system use.

5.2 Billing. Licensee's billing activities shall comply with the following:

5.2.1 Licensee shall provide the following information to all Customers at the time of installation of service, at least annually, and at any other time upon request.

5.2.1.1 Prices and options for programming services and conditions of subscription to programming and other services.

5.2.1.2 Installation, service and maintenance policies.

5.2.1.3 Billing and complaint procedures, including the address and telephone number of Licensee.

5.2.2 Licensee shall notify Customers in advance of any changes in rates, programming services or channel positions. Licensee shall give notice to Customers a minimum of thirty (30) days in advance of such changes if the changes are then known to Licensee or are within Licensee's control. In addition, Licensee shall notify Customers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.

5.2.3 Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits. Bills shall list a Licensor phone number and address provided by Licensor for customers to register customer service complaints with Licensor. Until Licensor provides another phone number, the phone number shall be (623) 773-7212, and the address is City of Peoria, Attn: Cable TV License, 9875 N. 85th Avenue, Peoria, AZ 85345.

5.2.4 Licensee shall respond to a written complaint from a Customer within thirty (30) days.

5.2.5 Licensee shall issue refund checks promptly, but no later than the earlier of:

5.2.5.1 The Customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier.

5.2.5.2 The return of the equipment supplied by Licensee if service is terminated.

5.2.6 Credits for service will be issued no later than the Customer's next billing cycle following the determination that a credit is warranted.

5.2.7 Any Customer shall be entitled, upon request, oral or written, to Licensee to a refund equal to one day's service for each Customer's loss of service caused by Licensee: (1) for a continuous twenty-four (24) hour period or (2) for a period of two (2) or more hours on each of any four (4) days within a monthly billing period.

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

5.2.9 Licensee shall afford each Customer a right of rescission for ordering Cable Service. Such right of rescission shall end upon the earlier of three (3) days after the order or initiation of installation of Licensor's equipment on the Customer's premises.

5.2.10 Licensee shall bill all Customers in a uniform manner, regardless of the Customer's level of service. In no case shall any Customer be billed for services in excess of thirty (30) days prior to receipt of such service. Payment shall be due no sooner than the fifteenth (15th) day of each billing period, and the due date shall be listed on each bill. Bills shall be mailed no later than the first day of the billing period.

5.2.11 It is not a violation of this Agreement for Licensee and QC to jointly market their services, to issue joint billings or to coordinate or share customer billing and service processes.

5.3 Suspending Service. Licensee shall only disconnect or terminate a Customer's service for good and just cause. In no event shall Licensee disconnect said Cable Service for nonpayment without first notifying the affected Customer at least seven (7) days prior to such disconnection or termination. In no event shall such disconnection or termination for nonpayment occur in less than thirty (30) days after a Customer's failure to pay a bill due. Where Licensee has improperly discontinued Cable Service to any Customer, Licensee shall provide free reconnection.

5.4 Complaints through Licenser. Licensee shall act upon complaints made through Licenser within three (3) days after Licensee is informed of the complaint.

5.5 Community Service/Service to the Licenser. Upon request from Licenser, Licensee shall provide at no charge to Licenser, Licensee's basic tier Cable Service to Licenser facilities ("Community Service") as follows:

5.5.1 Community Service includes at no charge a drop, and one set top box, at any Licenser facility that is a Qualified Living Unit. If making service available to Licenser facility requires no more than a standard drop, Licensee shall make service available without charge to Licenser facilities. If making service available to a Licenser facility requires more than a standard drop, Licensee will not be required to make such service available unless the Licenser entity requesting such service pays to Licensee an amount equal to the actual, reasonable labor and material costs incurred by Licensee for the additional facilities and work, less Licensee's cost for a standard drop. Absent a showing by Licensee to the City Manager of unusual circumstances, which include without limitation street crossings or plant extensions, any standard drop to any Licenser facilities shall be accomplished within ten days of the written request for service.

5.5.2 Licenser may install at its own expense as many additional outlets as it deems appropriate beyond the one outlet provided at Licensee's expense at each location with no monthly service charge for such additional outlets so long as it does not degrade service. Licensee shall provide a reasonable signal level based on Licenser's design for additional outlets at each such location. If Licensee charges its residential customers a rental fee for additional set top converter boxes, then Licenser shall pay such fee for additional set top converter boxes necessary for additional outlets that Licenser requests.

5.5.3 Licensee shall provide Community Service to structures occupied by Licenser (whether owned or leased). However, if Licenser only has a single suite or area in a larger commercial building, such as shopping mall, then Lessee need only provide Community Services to the suite or area.

5.5.4 Licenser shall be responsible for the installation and maintenance of all interior distribution for Community Service.

5.5.5 Licenser's Office of Communication shall function as Licenser's point of contact with Licenser's departments requesting Community Service.

5.6 Licenser (City) Channels. Licensee will provide Licenser 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 Cable System and two (2)

channels of noncommercial governmental programming in the digital programming tier of the Cable System.

5.6.1 Basic Service Tier.

5.6.11 Government Channel. Licensee shall make (or continue to make) available in the basic service tier at no charge to Licensor one (1) channel on the Cable System designated as a governmental Channel to be used by Licensor government officials and agencies. The governmental channel is for use by Licensor for non-commercial, informational programming regarding government activities and programs.

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

5.7 Digital Channels. Within one hundred twenty (120) days of written request by Licensor, Licensee shall make available in the digital programming tier at no cost to Licensor one (1) channel to be designated as a government, public service (fire or police) or educational channel for use by Licensor for non-commercial, informational programming regarding government or education activities and programs. Licensor may request two (2) such channels in addition to the channels specified in Section 5.6.1.

5.8 Point of Origin. Licensor channels shall each originate from a studio designated by Licensor within the Boundaries. Licensee shall establish the connection to the Cable System necessary for each of Licensor channels to originate from this location at no cost to Licensor. If Licensor elects to relocate the point of origination for any of the Licensor channels, Licensor shall bear the entire cost of such relocation.

5.9 Maintenance of Equipment. Licensee shall provide at no charge to Licensor prompt and regular periodic maintenance and replacement of any cables, amplifiers, and other distribution equipment owned by Licensee and used for Licensor channels. Licensor shall provide and operate and maintain at its expense all other equipment and facilities necessary for operation of Licensor channels.

5.10 Location of Channels. Licensee may, in its sole discretion, determine the tier and channel location of Licensor channels and the method for delivering these channels over the Cable System.

5.11 Unused Capacity. Licensee may utilize unused capacity on the Licensor channels for any purpose under rules and procedures established by Licensor. Licensee and Licensor will annually review the use of the Licensor channels and, upon mutual agreement between Licensee and Licensor, Licensor may relinquish one or more of Licensor channels to Licensee for use as Licensee sees fit.

5.12 Change in Cable Technology Licensor and Licensee will meet annually or upon the written request of either party to discuss changes in Broadband and Communications 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 Agreement may be modified by mutual agreement of Licensor and Licensee to respond to a change in law, regulations, technology, competing services, the needs of the community, or other factors affecting cable television.

5.13 Licensee shall permit Licensor to include the basic PEG Channel information in any electronic/interactive program guide. Licensee shall bear the costs to include the basic information in the programming guides for the PEG Channels, free of charge and at no cost to Licensor. Licensor shall have the right to pay for more enhanced program information to be made available on the programming guides including the Channel name and logo/icon, program titles scheduled in thirty (30) minute time blocks, program descriptions, information needed for search and record features, and any other information similarly provided for other broadcast channels and commercial cable/satellite Channels.

5.14 On Demand Content. Licensee shall make available a minimum of ten (10) hours of education, and government content on the Licensee's network in the form of "On Demand" programming.

5.15 Return Broadcast Feed. At a date mutually agreed to by the parties, a return feed of the television signal being transmitted shall be provided to the point of origin.

VI. IMPROVEMENTS BY LICENSOR

6. Improvements by Licensor. Licensor has not promised to and is not obligated in any manner to make any improvements or perform any other construction or other work in the Right-of-way.

6.1 Use of the Right-of-Way. Nothing in this Agreement increases, diminishes or otherwise alters Licensor's authority or manner in which it regulates QC's use of the right-of-way. Construction, installation, operation, and maintenance of facilities in the right-of-way shall be in a manner such that it operates at all times consistent with all laws, Licensor's construction standards and the FCC Rules and Regulations, as amended from time to time. In addition, Licensor may at any time conduct independent measures of the Cable System.

6.2 Construction, installation, and maintenance of a Cable System shall be performed in an orderly and professional manner and adhere to the Licensor's standards relative to underground facilities. All cables and wires shall be installed underground, and where possible, parallel with and in a manner similar to the installation of electric and telephone lines, so long as such lines are underground. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations. Installation shall be in conformance with all applicable codes including property maintenance codes, the subdivision code and design guidelines approved by Licensor. All applicable sections of all current codes, ordinances, and standards in effect at the time of permitting shall be complied with.

6.3 Utility Locating Systems. QC shall participate in the regional one-call utility locating system (Blue Stake).

6.4 Residential Notification of Construction Activity Required. Residential notice of construction activity shall be provided sixty (60) days in advance to all affected residents before any system construction crews enter the ROW adjacent to their property; however, such notice is not required in emergencies.

VII. LICENSEE'S IMPROVEMENTS GENERALLY

7. Licensee's Improvements Generally. Licensee's use of the right-of-way shall only be through QC's facilities or other persons who have a lawful, permitted right to be in the right-of-way. Licensee shall not own, install, repair, maintain, operate or otherwise work on or control any physical improvements or equipment of any kind within the right-of-way.

VII. CABLE SYSTEM EXTENSION REQUIREMENTS

8. Cable System Extension Requirements. Licensee shall offer to provide Cable Service to all residents and business locations within the Boundaries in accordance with the following requirements (the "System Extension Requirements"):

8.1 Service Extension. Licensee shall provide Cable Service upon request from any person in the Boundaries who is located 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. Rate and charges may not exceed the Licensee's published rates. Licensee shall not unlawfully deny Cable Service to any group of subscribers or potential subscribers.

8.2 Changes to Boundaries. The following shall apply upon any change in Boundaries:

8.2.1 This Agreement shall no longer apply to an area removed from the Boundaries.

8.2.2 This Agreement shall apply to an area added to the Boundaries. Within sixty (60) days after the change to Boundaries, Licensee shall comply with the System Extension Requirements for the added area.

8.2.3 Licensors and Licensee shall coordinate to develop a process for Licensee to receive notice of changes to the Boundaries within a reasonable time.

IX. MAINTENANCE AND OPERATIONS

9. Maintenance and Operations. All maintenance, operations and other physical work to the facilities in the right-of-way shall be performed by QC and not Licensee. However, QC's failure to adhere to the requirements, regulations, maintenance and obligations for the right-of-way may affect Licensee's ability to provide Cable Service as authorized by this Agreement.

9.1 Maintenance of 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 Operation Center, as those authorities are identified and defined within FCC Rules and Regulations, Part 11.

X. BREACH BY LICENSEE

10. Breach by Licensee. Licensee shall comply with the terms and provisions of this Agreement. Licensee's failure to do so shall be a breach by Licensee of this Agreement.

10.1 Events of Default. This entire Agreement is made upon the condition that each and every one of the following events shall be deemed an "Event of Default" by Licensee of Licensee's material obligations under this Agreement:

10.1.1 If Licensee shall be in arrears in the payment of Fee Payment due and not paid and shall not cure such arrearage within ten (10) days after Licensors notified Licensee of such arrearage.

10.1.2 If Licensee willfully fails to provide Cable Service as required by this Agreement over a substantial portion of the Boundaries to Subscribers for ninety-six (96) consecutive hours, unless Licensor authorizes a longer interruption of services.

10.1.3 If Licensee shall fail to maintain any insurance required by this Agreement, unless within thirty (30) days Licensee provides the insurance, including coverage that is retroactive to prevent any gap in coverage.

10.1.4 If Licensee shall be the subject of a voluntary or involuntary bankruptcy, receivership, insolvency or similar proceeding or if any assignment of any of Licensee's property shall be made for the benefit of creditors or if Licensee dies or is not regularly paying its debts as they come due (collectively a "Licensee Insolvency").

10.1.5 If Licensee shall violate the provisions of the documents by which Licensor acquired its interests in the Right-of-way within any cure period that may be provided by such documents.

10.1.6 If the issuer of any letter of credit shall fail for any reason to timely and fully honor any request by Licensor for funds or other performance under the instrument and Licensee fails to cause the issuer to or some other person to honor the request within ten (10) days after Licensor notifies Licensee that such request has not been honored.

10.1.7 If Licensee shall engage in a pattern of repeated failure (or neglect) to timely do or perform or observe any provision contained herein. After Licensor has once given notice of any failure by Licensee to comply with any provision of this Agreement, the following shall constitute a repeated failure by Licensee to comply with such provision:

10.1.7.1 Another failure to comply with any provision of this Agreement during the following thirty (30) day period.

10.1.7.2 Three (3) or more failures to comply with any provision of this Agreement during any ninety (90) day period.

10.1.7.3 Six (6) or more failures to comply with any provision of this Agreement during any twelve (12) month period.

10.1.8 If Licensee shall fail to or neglect to timely and completely do or perform or observe any other provisions contained herein and such failure or neglect shall continue for a period of thirty (30) days after Licensor has notified Licensee in writing of such failure or neglect.

10.2 Licensor's Remedies. Upon the occurrence of any Event of Default or at any time thereafter, Licensor may, at its option and from time to time, exercise at Licensee's expense any or all or any combination of the following cumulative remedies in any order and repetitively at Licensor's option:

10.2.1 Termination of this Agreement. Termination of this Agreement due to Licensee's breach or for any other reason does not terminate Licensee's obligations arising during the time simultaneous with or prior to or the termination, and in no way terminates any of Licensee's liability related to any breach of this Agreement. City shall not use such termination power without first conducting a hearing before its City Manager or designee at which Licensee may appear and present evidence. The City may state in writing the City's determination of the validity of the proposed termination and summarize its findings on the

controversy. Such findings may be appealed by Licensor or Licensee to a court for de novo review.

10.2.2 Cause a receiver to be appointed for the continuing performance of Licensee's obligations at the Right-of-way.

10.2.3 Pay or perform, for Licensee's account, in Licensee's name, and at Licensee's expense, any or all payments or performances required hereunder to be paid or performed by Licensee.

10.2.4 Abate at Licensee's expense any violation of this Agreement.

10.2.5 Notwithstanding anything in this Agreement to the contrary, unilaterally and without Licensee's or any other person's consent or approval, draw upon, withdraw or otherwise realize upon or obtain the value of any letter-of-credit, escrowed funds, insurance policies, or other deposits, sureties, bonds or other funds or security pledged for Licensor's benefit pursuant to this Agreement and use the proceeds for any remedy permitted by this Agreement.

10.2.6 Be excused without any liability to Licensee therefore from further performance of any or all obligations under this Agreement.

10.2.7 Insist upon Licensee's full and faithful performance under this Agreement and upon Licensee's full and timely payment of all amounts during the entire remaining term of this Agreement.

10.2.8 Require an additional security deposit adequate to protect Licensor and the right-of-way in light of Licensee's history of performance under this Agreement and pursuant to Licensor's City Code.

10.2.9 Assert, exercise or otherwise pursue at Licensee's expense any and all other rights or remedies, legal or equitable, to which Licensor may be entitled, subject only to the limitation set out below on Licensor's ability to collect money damages in light of the Violation Fee Payment .

10.2.10 Licensee understands and agrees that failure to comply with any time or performance requirement set forth in this Agreement will result in damage to Licensor, and that it is and will be impracticable to determine the actual amount of such damages caused by delay or nonperformance. Therefore, the Licensee will be assessed liquidated damages pursuant to Section 6-85 of the City Code.

10.2.11 In the event that the City believes that Licensee has not complied with the terms of this Agreement; the City will informally discuss the matter with Licensee. If these discussions do not lead to resolution of the issues, the City will notify Licensee in writing of the exact nature of the alleged noncompliance. Licensee will 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 the 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 and the City in its sole discretion can determine if such steps are acceptable.

10.2.12 If Licensee fails to respond to the notice described in Subsection 10.2.10 pursuant to the procedure set forth therein, or if the alleged default is not cured within thirty (30) days after the date projected pursuant to Subsection 10.2.11 above, or if it intends to continue its assertion of, and investigation into, the alleged default, then the City shall schedule a hearing before

the City Manager or its designee at which at which Licensee may appear and present evidence. The City may state in writing the City's determination from the hearing and summarize its findings.

10.3 Violation Fee Payment. Licensee shall pay Violation Fee Payment to Licensor as follows:

10.3.1 Licensee's failure to comply with time and performance requirements in this Agreement specifies a Violation Fee Payment amount will result in money damage to Licensor for which it is and will be impracticable to determine the actual amount. Therefore, the parties have agreed that, in lieu of Licensee paying money damages to Licensor for Licensee's violation of this Agreement for which this Agreement specifies a Violation Fee Payment amount, Licensee shall pay Violation Fee Payment .

10.3.2 Violation Fee Payment is only intended to remedy direct money damage that Licensor suffers because of Licensee's breach. Licensee's payment of Violation Fee Payment does not in any way excuse any breach by Licensee of this Agreement or limit in any way Licensor's obtaining any other legal or equitable remedy provided by this Agreement or otherwise for such breach.

10.3.3 Except as stated in this Section 10, no cure period applies to the accrual of Violation Fee Payment. For example, Violation Fee Payment for Licensee's failure to comply with the customer service standards shall begin to accrue on the first day that Licensee fails to remedy a violation of customer service standards after notice in writing from Licensor of the violation.

10.3.4 Licensee may elect to draw upon the letter of credit to collect the Violation Fee Payment.

10.3.5 The amount of the Violation Fee Payment per day or part thereof is as follows:

10.3.5.1 The amount of \$150.00 per day for each failure to comply with customer service standards as stated in the City Code and required by this Agreement.

10.3.5.2 The amount of \$250.00 per day for each failure to make Licensee's books and records available as required by this Agreement.

10.3.5.3 The amount of \$2,750.00 per day for any unauthorized partial or total assignment of this Agreement.

10.3.5.4 The amount of \$150.00 per day for Licensee's failure to cure any other violation of the License, following such notice and opportunity to cure as may be allowed under this Agreement.

10.3.5.5 The amount of \$500.00 per instance of any other failure to comply with this Agreement.

10.3.6 Violation Fee Payments shall be assessed as follows;

10.3.6.1 Subject to Section 10.2.11, if Licensor determines that Licensee is liable for Violation Fee Payment, then Licensor shall issue to Licensee a notice of Licensor's assessing a Violation Fee Payment. The notice shall set forth the nature of the violation and the amount of the assessment.

10.3.6.2 Licensee shall have thirty (30) days after the notice to pay for the Violation Fee Payment or give Licensors notice contesting the assertion of noncompliance.

10.3.6.3 If Licensee fails to cure the violation or contest the violation or respond to the notice, Licensee shall pay the Violation Fee Payment. Otherwise, Licensors may schedule a public hearing to investigate whether the Violation Fee Payment is properly assessed. Licensors may provide Licensee at least ten (10) days prior written notice of such hearing, which shall specify the time, place and purpose of such hearing. At such hearing, Licensee shall be provided a full and fair opportunity to be heard and present evidence.

10.3.6.4 Licensee may appeal the outcome of the hearing to an appropriate court, which shall have the power to review Licensors decision "de novo". Such appeal to the appropriate court must be taken within sixty (60) days after the issuance of Licensors determination. Otherwise, the outcome of the hearing shall be final and conclusive as between Licensee and Licensors.

10.4 Non-waiver. Licensee acknowledges Licensees unconditional obligation to comply with this Agreement. No failure by Licensors to demand any performance required of Licensee under this Agreement, and no acceptance by Licensors of any imperfect or partial performances under this Agreement, shall excuse such performance or impair in any way Licensors ability to insist, prospectively and retroactively, upon full compliance with this Agreement. No acceptance by Licensors of Fee Payment payments or other performances hereunder shall be deemed a compromise or settlement of any right Licensors may have for additional, different or further payments or performances. Any waiver by Licensors of any breach of condition or covenant herein contained to be kept and performed by Licensee shall not be deemed or considered as a continuing waiver and shall not operate to bar or otherwise prevent Licensors from declaring a default for any breach or succeeding or continuing breach either of the same condition or covenant or otherwise. No statement, bill or notice by Licensors or Licensee concerning payments or other performances due hereunder, or failure by Licensors to demand any performance hereunder, shall excuse Licensee from compliance with this Agreement nor estop Licensors (or otherwise impair Licensors ability) to at any time correct such notice and/or insist prospectively and retroactively upon full compliance with this Agreement. No waiver of any description (INCLUDING ANY WAIVER OF THIS SENTENCE OR PARAGRAPH) shall be effective against Licensors unless made in writing by a duly authorized representative of Licensors specifically identifying the particular provision being waived and specifically stating the scope of the waiver. LICENSEE EXPRESSLY DISCLAIMS AND SHALL NOT HAVE THE RIGHT TO RELY ON ANY SUPPOSED WAIVER OR OTHER CHANGE OR MODIFICATION, WHETHER BY WORD OR CONDUCT OR OTHERWISE, NOT CONFORMING TO THIS PARAGRAPH.

10.5 Reimbursement of Licensors Expenses. Licensee shall pay to Licensors within thirty (30) days after Licensors demand any and all actual amounts expended or incurred by Licensors in performing Licensees obligations together with interest thereon at the rate of twelve percent (12%) per annum from the date expended or incurred by Licensors.

10.6 Breach by Licensors. Notwithstanding anything in this Agreement to the contrary, in the event Licensors at any time is required to pay to Licensee any amount or render any performance, such amount or performance is not due until thirty (30) days after notice by Licensee to Licensors that the amount has become payable or that the performance is due. In the event a cure cannot be effected during that period, Licensors shall not be in default so long as Licensors commences cure during the period and diligently prosecutes the cure to completion provided such cure must be completed within sixty (60) days after the notice.

10.7 Right to Setoff and Credit. In addition to its other rights and remedies under this Agreement, Licensor shall have the right to setoff and credit from time to time and at any time, any and all amounts due from Licensee to Licensor, whether pursuant to this Agreement or otherwise, against any sum which may be due from Licensor to Licensee pursuant to this Agreement or otherwise.

10.8 Enforcement. Either party shall have the right to pursue litigation or otherwise enforce its rights under this Agreement or other legal or equitable rights it might have.

XI. TERMINATION

11. Rights at Termination. The following provisions shall apply at the expiration of the term hereof or upon any other termination of this Agreement.

11.1 Surviving Obligations. Expiration of this Agreement (or Licensor's termination of this Agreement due to an Event of Default or any other reason) does not terminate Licensee's obligations existing or arising prior to or simultaneous with, or attributable to, the termination or events leading to or occurring before termination.

11.2 Delivery of possession. Licensee shall cease using the Right-of-way for provision of Cable Service.

11.3 New Approvals and Agreements. Upon expiration or termination of this Agreement for any reason, Licensee shall no longer have the right to use the Right-of-way to provide Cable Service. Licensee shall have a one hundred eighty (180) day period thereafter to obtain from Licensor such licenses, permits or other approvals or agreements as Licensor may then be entitled to lawfully require for Licensee to continue using the Telecommunications Facilities in the Right-of-way for any other communication purpose Licensee may desire to provide. After such period, any right to use the Right-of-way shall be pursuant to such new approvals and agreements and not pursuant to this Agreement.

11.4 Confirmation of Termination. Upon expiration or termination of this Agreement for any reason, Licensee shall provide to Licensor upon demand a confirmation of termination of this Agreement executed and acknowledged by Licensee and by all persons who claim that they have been received from or through Licensee any interest in or right to use the Right-of-way.

XII. INDEMNITY AND INSURANCE

12. Insurance Responsibility. During the entire term of this Agreement, Licensee shall insure its activities at and about the Right-of-way and shall provide insurance and indemnification as follows:

12.1 Insurance Required. Not later than the date of this Agreement, and at all times thereafter when Licensee is occupying or using the Right-of-way in any way, Licensee shall obtain and cause to be in force and effect the following insurance:

12.1.1 Commercial General Liability. 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 three million dollars combined single limit for bodily injury and property damage. The City shall be named as an additional insured. Such insurance will not be cancelable except upon thirty (30) days prior written notice to Licensor by Licensee and only upon procurement of replacement insurance with like coverage and limits. Upon written request, Licensee shall provide a certificate of insurance showing evidence of the

coverage required by this Agreement. Licensee may self-insure the above-described policy coverages if Licensee or its parent is of sufficient financial standing to provide such insurance.

12.1.2 Automobile Liability. Automobile liability insurance with a limit of One Million Dollars (\$1,000,000) for each occurrence covering any and all owned, hired, and non-owned vehicles assigned to or used in any way in connection with Licensee's use of the Right-of-way. Without limitation, such insurance shall cover hazards of motor vehicle use for loading and off-loading.

12.1.4 Workers Compensation. Such workers' compensation and limit of similar insurance as is required by law and employer's liability insurance with a minimum limit of One Hundred Thousand Dollars (\$100,000) for each accident, One Hundred Thousand Dollars (\$100,000) disease for each employee, Five Hundred Thousand Dollars (\$500,000) policy limit for disease. All contractors and subcontractors must provide like insurance.

12.1.5 Other Insurance. Any other insurance Licensor may reasonably require for the protection of Licensor and Licensor's employees, officials, representatives, officers and agents (all of whom, including Licensor, are collectively "Additional Insureds"), the Right-of-way, surrounding property, Licensee, or the activities carried on or about the Right-of-way. Such insurance shall be limited to insurance a reasonable person owning, leasing, designing, constructing, occupying, or operating similar facilities could reasonably purchase.

12.2 Policy Limit Escalation. Licensor may elect by notice to Licensee to increase the amount or type of any insurance to account for inflation, changes in risk, or any other factor that Licensor reasonably determines to affect the prudent amount of insurance to be provided.

12.3 Form of All Insurance. All insurance provided by Licensee with respect to the Right-of-way, whether required by this Agreement or not, shall meet the following requirements:

12.3.1 "Occurrence" coverage is required. "Claims made" insurance is not permitted, except for Broadcast Insurance.

12.3.2 If Licensee uses any excess insurance then such excess insurance shall be "follow form" equal to or broader in coverage than the underlying insurance.

12.3.3 Policies must also cover and insure Licensee's activities relating to the business operations and activities conducted away from the Right-of-way.

12.3.4 Licensee must clearly show by providing copies of insurance certificates, formal endorsements or other documentation acceptable to Licensor that all insurance coverage required by this Agreement is provided.

12.3.5 Licensee's insurance shall be primary insurance with respect to claims arising out of Licensee's operations, activities and obligations under this Agreement.

12.3.6 All policies, including workers compensation, shall waive transfer rights of recovery (subrogation) against Licensor, and the other Additional Insured's.

12.3.7 No deductible, retentions, or "self-insured" amounts shall exceed One Hundred Thousand Dollars (\$100,000.00) in the aggregate per year, per policy. Licensee shall be solely responsible for any self-insurance amount or deductible. At any time Licensee's

net worth is more than One Hundred Million Dollars (\$100,000,000.00), Licensee may elect to self insure up to the amount of Three Million and No/100 Dollars (\$3,000,000.00).

12.3.8 All policies except workers' compensation must name Licensors as additional Insureds. Licensee shall cause coverage for Additional Insureds to be incorporated into each insurance policy by endorsement with respect to claims arising out of Licensee's operations, activities and obligations under this Agreement.

12.3.9 All policies shall require that notices be given to Licensors in the manner specified for notices to Licensors under this Agreement.

12.4 Insurance Certificates. Licensee shall evidence all insurance by furnishing to Licensors certificates of insurance annually and with each change in insurance coverage. Certificates must evidence that the policy described by the certificate is in full force and effect and that the policy satisfies each requirement of this Agreement applicable to the policy. For example, certificates must evidence that Licensors and the other Additional Insureds are additional Insureds. Certificates must be in a form acceptable to Licensors. Licensee shall provide updated certificates at Licensors's request.

12.5 Acceptable Insurers. All insurance policies shall be issued by insurers acceptable to Licensors. At a minimum, all insurers shall be duly licensed (or qualified unlicensed non-admitted insurer) by the State of Arizona, Department of Insurance. At a minimum, all insurers shall have and maintain an A.M. Best, Inc. rating of B++ 6.

12.6 No Representation of Coverage Adequacy. By requiring herein, Licensors does not represent that coverage and limits will be adequate to protect Licensee. Licensors reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but have no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Licensee from, nor be construed or deemed a waiver of, Licensee's obligation to maintain the required insurance at all times.

12.7 Indemnity. In addition to all other indemnities and other obligations hereunder, to the fullest extent permitted by law, throughout the term of this Agreement and until all obligations and performances under or related to this Agreement are satisfied and all matters described in this paragraph are completely resolved, Licensee agrees and shall jointly and severally indemnify, defend and hold harmless Licensors, its officers, boards, and employees, for, from, and against any and all costs, damages, expenses, claims, suits, actions, liabilities, and judgments for damages including, but not limited to, expenses for legal fees, whether suit be brought or not, and disbursements and liabilities incurred or assumed by Licensors in connection with: (i) any liability for damages that arise out of Licensee's cause for construction, operation, or maintenance of its Cable System (or facilities) and (ii) any liability or claims resulting from property damage or bodily injury (including accidental death) that arise of Licensee's cause for construction, operation, or maintenance of its Cable System, facilities, including, but not limited to, reasonable attorneys' fees and costs. Licensee's foregoing duty to indemnify shall extend to the claims caused by the actions of its employees, agents and contractors. Notwithstanding the foregoing, the Indemnity does not apply to:

12.7.1 Claims arising only from the sole negligence or intentionally wrongful acts of Licensors.

12.7.2 Claims that the law prohibits from being imposed upon the indemnitor.

12.8 Risk of Loss. Subject to Section 12.7.1 above, Licensee shall be responsible for any and all damage to its property and equipment related to this Agreement and shall hold harmless and indemnify Licenser and all other Additional Insureds, regardless of the cause of such damages

12.9 Insurance to be Provided by Others. Licensee shall cause its contractors or other persons occupying, working on or about, or using the Right-of-way pursuant to this Agreement to be covered by their own or Licensee's insurance as required by this Agreement.

XIII. CONDEMNATION

13. Condemnation. Licenser has not relinquished any right of condemnation or eminent domain.

XIV. DAMAGE TO CABLE SYSTEM

14. Damage to Cable System. Licenser has no responsibility under this Agreement to repair any damage to Licensee's Cable System.

XV. LICENSEE'S RECORDS

15. Licensee's Records. During the entire term of this Agreement, Licensee shall keep records and provide information to Licenser as follows:

15.1 Scope of Information. Unless otherwise specified, otherwise specified, all of Licensee's recordkeeping and disclosure obligations under this article include and are limited to information about this Agreement and Licenser's and Licensee's rights and obligations hereunder (collectively, the "Covered Information"). Without limitation, Covered Information includes records required to be kept by Licensee pursuant to the rules and regulations of the FCC, full and complete plans and maps showing the exact location of all Cable System, and financial information underlying written reports. Covered Information does not include personally identifiable customer information without the customer's consent in violation of Section 631 of the Cable Communications Policy Act of 1984, as amended, 47 U.S.C. Section 55.1.

15.2 Supplemental Reports. Licensee shall deliver to Licenser written reports (and, if requested by Licenser, a presentation to Licenser's governing council or designee) covering such Covered Information as Licenser may request from time to time. Without limitation, such reports shall include the following:

15.2.1 Licensee shall provide Licenser quality reports on the number of residential and business units passed to which it is capable of providing Cable Service and the number of subscribers, and may provide this so confidential information is protected as long as such does not compromise the integrity of information.

15.2.2 Licensee shall participate in any annual performance review of Licensee's performance of the terms of this Agreement. Licenser may notice such reviews as public review hearings with the opportunity for public participation. Licenser shall give not less than thirty (30) days notice of such reviews.

15.2.3 Licensee shall provide Licenser with the reports, financial information, documents and information required by the Cable Code.

15.3 Records Inspection. At Licensee's expense, Licensee shall:

15.3.1 Permit and assist Licensor and its representative's at all reasonable times to inspect, audit, and copy Licensee's records of Covered information.

15.3.2 Make the records of Covered Information (and reasonable accommodations for Licensor's audit and inspection) available to Licensor at Licensee's offices in Maricopa County, Arizona (or at another location requested by Licensor within the corporate limits of the City of Peoria).

15.3.3 Cause Licensee's employees and agents to give their full cooperation and assistance in connection with Licensor access to the Covered Information.

15.4 Standards for Records. Licensee shall maintain a standard, modern system of recordkeeping for the Covered Information and shall keep and maintain proper and accurate books and other repositories of information relating to the Covered Information in accordance with generally accepted accounting principles applied on a consistent basis. In the event Licensor does not receive Covered Information, Licensor shall have the right to estimate the information that is not provided, which estimate shall be binding upon Licensee.

15.5 Record Retention. Licensee shall preserve records of the Covered Information in a secure place at Licensee's corporate headquarters in the continental United States and available to Licensor on request for review within the City of Peoria, Maricopa County, Arizona, or other mutually agreed upon location for a period ending seven (7) years after the time period reported by the records. If any books or records of Licensee are not kept in a regional office in Maricopa County then upon Licensor's request as set forth above, and if Licensor determines that an examination of such records are necessary for the enforcement of this Agreement, then all reasonable travel expenses incurred in making such examination shall be paid by Licensee.

15.6 Record Media Included. Licensor's and Licensee's rights and obligations regarding the Covered Information apply regardless of the type of media, materials, or data repositories that may contain the Covered Information. Licensor's rights to the Covered Information apply regardless of whether the Covered Information is stored on recordings, notes, ledgers, correspondence, reports, drawings, memoranda, or other repository of Covered Information.

15.7 Costs of Audit. If an audit, inspection or examination discloses underpayments (or other matters adjusted in favor of Licensor) of any nature that exceed five percent (5%) of any payments or single payment, Licensee shall pay to Licensor Licensor's actual cost (based on the amount paid by Licensor, or based on reasonable charges charged by private auditors and other service providers for comparable work if the examination is performed by Licensor's employees) of the examination, together with late fees, interest, and other amounts payable in connection with such adjustments or payments. Any adjustments and/or payments due as a result of any such examination shall be made within a reasonable amount of time (not to exceed 30 days) after Licensor gives to Licensee notice of Licensor's findings. Any such audit shall take place within one thousand ninety-five (1,095) days following the close of each of Licensee's fiscal years.

XVI. COMPLIANCE WITH LAW

16. Compliance with Law. Licensee shall perform its obligations under this Agreement in accordance with all federal, state, county and local laws, ordinances, regulations or other rules or policies as are now in effect or as may hereafter be adopted or amended. Without limiting in any way the generality of the foregoing, Licensee shall comply with all and each of the following:

16.1 Applicability of Municipal Law. Without limitations, Licensee shall comply with applicable provisions of municipal law as follows:

16.1.1 Licensee acknowledges that this Agreement does not constitute, and Licensor has not promised or offered, any type of waiver of, or agreement to waive (or show any type of forbearance, priority or favoritism to Licensee with regard to) any law, ordinance, power, regulation, tax, assessment or other legal requirement now or hereafter imposed by the City of Peoria or any other governmental body upon or affecting Licensee, the Right-of-way or Licensee's use of the Right-of-way.

16.1.2 All of Licensee's obligations hereunder are in addition to, and cumulative upon (and not to any extent in substitution or satisfaction of), all existing or future laws and regulations applicable to Licensee.

16.1.3 Licensor by this Agreement cannot and has not relinquished or limited any right of condemnation or eminent domain over the Right-of-way or any other property related to this Agreement or within the Right-of-way.

16.1.4 Licensor's rights and remedies hereunder for Licensee's failure to comply with all applicable laws supplement and are in addition to and do not replace otherwise existing powers of the City of Peoria or any other governmental body.

16.2 Taxes, Liens and Assessments. In addition to all other amounts herein provided and to the extent consistent with applicable law, Licensee shall pay, when the same become due and payable, all taxes and general and special fees, charges and assessments of every description that during the term of this Agreement may be levied upon or assessed upon or with respect to Licensee's use of the Right-of-way, the operations conducted therein, any amounts paid or other performances under this Agreement by either party, whether belonging to Licensor or Licensee. Licensee shall have the right to contest such amounts or impositions through all applicable proceedings and appeals. Licensee shall pay, indemnify, defend and hold harmless Licensor and the Right-of-way and all interests therein and improvements thereon from any and all such obligations, including any interest, penalties and other expenses which may be imposed, and from any lien or sale or other proceedings to enforce payment thereof.

16.3 Preemption. The parties acknowledge that the terms of this Agreement are affected by various existing Federal and state laws, which may vary during the term of this Agreement, and those principles of preemption and other normal legal principles shall apply in determining the manner in which such future laws and regulations affect this Agreement.

16.4 Impairment of Contract Rights. This Agreement does not waive Licensor's or Licensee's right to assert any claim that future laws or regulations impair this Agreement.

XVII. ASSIGNABILITY

17. Assignability. This Agreement is not assignable by Licensee (and any assignment shall be void and vest no rights in the purported assignee) unless the assignment is made in strict compliance with the following:

17.1 Assignments Affected. Every assignment of any of Licensee's interest in this Agreement or any of Licensee's rights or interests hereunder is prohibited unless Licensee first receives from Licensor notice of Licensor's consent to the assignment. All references in this Agreement to assignments by Licensee or to assignees shall be deemed also to apply to all of

the following transactions, circumstances and conditions and to all persons claiming pursuant to such transactions, circumstances and conditions:

17.1.1 Any voluntary or involuntary assignment, conveyance or transfer of the Right-of-way or any interest therein or any rights under this Agreement, in whole or in part.

17.1.2 Any voluntary or involuntary pledge, lien, mortgage, security interest, judgment, claim or demand, whether arising from any contract, any agreement, any work of construction, repair, restoration, maintenance or removal, or otherwise affecting Licensee's rights to use the Right-of-way (collectively "Liens").

17.1.3 Any assignment by Licensee of any interest in this Agreement for the benefit of creditors, voluntary or involuntary.

17.1.4 A Licensee Insolvency.

17.1.5 The occurrence of any of the foregoing by operation of law or otherwise.

17.1.6 The occurrence of any of the foregoing with respect to any assignee or other successor to Licensee.

17.2 Pre-approved Assignments. Subject to certain conditions hereafter stated Licenser hereby consents to certain assignments (the "Pre-approved Assignments"). Only the following assignments are Pre-approved Assignments:

17.2.1 Assignments. Licensee's complete assignment to QC or an affiliate of Licensee.

17.2.2 Complete Assignment of Agreement. Licensee's complete assignment of all of Licensee's rights and Interests in this Agreement to a single assignee who assumes all of Licensee's obligations relating thereto. Such assignee must meet all of the following requirements, as determined by Licenser in Licenser's reasonable discretion (a "Qualified Operator") and pursuant to the City Code:

17.2.2.1 The assignee has experience, management, credit standing and financial capacity and other resources equal to or greater than Licensee's and adequate to successfully perform under this Agreement.

17.2.2.2 The assignee must be experienced in the management and operation of similar projects.

17.2.2.3 The assignee must assume all of Licensee's obligations relating to this Agreement.

17.2.2.4 The assignee has a net worth of not less than One Billion Dollars (\$1,000,000,000.00).

17.2.3 Stock Transfers. The transfer of stock, regardless of quality.

17.2.4 Merger. The merger or consolidation of Licensee with another entity that is a Qualified Operator.

17.3 Limitations on Assignments. Licensor consent to any assignment, including without limitation, Pre-approved Assignments is not effective until the following conditions are satisfied:

17.3.1 Except for the sale of stock, Licensee shall provide to Licensor the following:

17.3.1.1 Complete copies of documents accomplishing the assignment.

17.3.1.2 Each assignee must execute an assumption of this Agreement in a form acceptable to Licensor.

17.3.2 Each Pre-approved Assignment must satisfy all other requirements of this Agreement pertaining to assignments.

17.4 Assignment Remedies. Any assignment without Licensor's consent shall be void and shall not result in the assignee obtaining any rights or interests in, under or related to this Agreement. Licensor may, in its sole discretion and in addition to all other remedies available to Licensor under this Agreement or otherwise, and in any combination, terminate this Agreement, collect Fee Payment from the assignee and/or declare the assignment to be void, all without prejudicing any other right or remedy of Licensor under this Agreement. No cure or grace periods shall apply to assignments prohibited by this Agreement or to enforcement of any provision of this Agreement against an assignee who did not receive Licensor's consent.

17.5 Effect of Assignment. Consent by Licensor to an assignment shall not relieve Licensee from obtaining Licensor's consent to any further assignment. In recognition of the specific Permitted Uses, no assignment shall release Licensee from any liability hereunder up to the point of the assignment.

17.6 Unity of Assignment. Any assignment must cover Licensee's entire interest in this Agreement. All of Licensee's rights under this Agreement must at all times remain with the Licensee's interest under this Agreement so that Licensor is only dealing with a single Licensee as to this Agreement.

17.7 Enforceability after Assignment. No consent by Licensor shall be deemed to be a novation. Licensor's consent to any assignment does not in any way expand or modify this Agreement or waive, diminish or modify any of Licensor's rights or remedies under this Agreement. This Agreement shall be enforceable personally and in total against Licensee and each successor, partial or total, and regardless of the method of succession, to Licensee's interest hereunder. Each successor having actual or constructive notice of this Agreement shall be deemed to have agreed to the preceding sentence.

17.8 Grounds for Refusal. Except for the Preapproved Assignments, no assignment of this Agreement by Licensee is contemplated or bargained for. Without limitation, Licensor has the right to impose upon any consent to assignment such conditions and requirements as Licensor may deem appropriate.

17.9 Delayed Approval. Whether Licensor has timely responded to a request by Licensee for Licensor's consent to an assignment shall be determined based on 47 U.S.C. 537 and 47 C.F.R. 76.502(a); and the consequences of an untimely response by Licensor shall be as provided therein. Not more than forty-five (45) days nor less than thirty (30) days before any deadlines in such statute or regulation, Licensee shall give Licensor notice identifying the deadline and requesting that Licensor act.

17.10 Form of Assignment. Any assignment shall be by agreement in form and content acceptable to Licensor. Without limitation, any assignment shall specify and require that each assignee acquiring any interest under this Agreement shall assume and be bound by, and be obligated to perform the terms and conditions of this Agreement.

17.11 Consent to Assignment. Licensee shall attach to each Pre-approved Assignment a copy of Licensee's notice to Licensor of the Pre-approved Assignment and other required documents, Licensee shall attach to each other assignment, a copy of Licensor's notice to Licensee of Licensor's consent to the assignment. This Agreement shall continue to be enforceable according to its terms in spite of any provisions of any documents relating to an assignment.

17.12 Assignment Fee. Licensee shall pay to Licensor in advance a nonrefundable fee to cover Licensor's cost in consideration of a Transfer or Assignment, as established in Licensor's City Code.

XVIII. MISCELLANEOUS

18. Miscellaneous. The following additional provisions apply to this Agreement:

18.1 Amendments. This Agreement may not be amended except by a formal writing executed by all of the parties with the exception of compliance with Section 2.1 above.

18.2 Time of the Essence. Time is of the essence of each and every provision of this Agreement.

18.3 Survival of Liability. All obligations of Licensee and Licensor hereunder and all warranties and indemnities of Licensee hereunder shall survive termination of this Agreement for any reason.

18.4 Severability. If any provision of this Agreement shall be ruled by a court or agency of competent jurisdiction to be invalid or unenforceable for any reason, then:

18.4.1 The invalidity or unenforceability of such provision shall not affect the validity of any remaining provisions of this Agreement.

18.4.2 This Agreement shall be automatically reformed to secure to the parties the benefits of the unenforceable provision, to the maximum extent consistent with law.

18.5 Conflict of Interest. No officer, representative or employee of Licensor shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement that is prohibited by law.

18.6 No Partnership. This Agreement and the transactions and performances contemplated hereby shall not create any sort of partnership, joint venture or similar relationship between the parties.

18.7 Non-liability of Officials and Employees. No official, representative or employee of Licensor shall be personally liable to any party, or to any successor in interest to any party, in the event of any default or breach by Licensor or for any amount which may

become due to any party or successor, or with respect to any obligation of Licensors or otherwise under the terms of this Agreement or related to this Agreement.

18.8 Notices. Notices hereunder shall be given in writing delivered to the other party or mailed by registered or certified mail, return receipt requested, postage prepaid addressed to:

If to Licensors: City Manager
City of Peoria
8401 W. Monroe Street
Peoria, AZ 85345

Copy to: City Attorney
City of Peoria
8401 W. Monroe Street
Peoria, AZ 85345

If to Licensee: Public Policy Department
Qwest Broadband Services, Inc.,
dba Centurylink
1801 California Street, 10th Floor
Denver, CO 80202

Copy to: Qwest Broadband Services, Inc.
dba CenturyLink
Attn: Public Policy Department
200 East Thomas
Phoenix, AZ 85012

By notice from time to time, a person may designate any other street address as its address for giving notice hereunder. Service of any notice by mail shall be deemed to be complete three (3) days (excluding Saturday, Sunday and legal holidays) after the notice is deposited in the United States mail.

18.9 Integration. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreement, understanding, negotiation, draft agreements, discussion outlines, correspondence, memoranda and representation regarding Licensee providing Cable Service via the Right-of-way.

18.10 Construction. Whenever the context of this Agreement requires, the singular shall include the plural, and the masculine shall include the feminine. This Agreement was negotiated on the basis that it shall be construed according to its plain meaning and neither for nor against any party, regardless of their respective roles in preparing this Agreement. The terms of this Agreement were established in light of the plain meaning of this Agreement and this Agreement shall therefore be interpreted according to its plain meaning and without regard to rules of interpretation, if any, which might otherwise favor Licensee.

18.11 Paragraph Headings. The paragraph headings contained herein are for convenience in reference and not intended to define or limit the scope of any provision of this Agreement.

18.12 No Third Party Beneficiaries. No person or entity shall be a third party beneficiary to this Agreement or shall have any right or cause of action hereunder. Licensors shall have no liability to third parties for any approval of plans, Licensee's construction of

improvements, Licensee's negligence, Licensee's failure to comply with the provisions of this Agreement (including any absence or inadequacy of insurance required to be carried by Licensee), or otherwise as a result of the existence of this Agreement.

18.13 Exhibits. All Exhibits specifically stated to be attached hereto as specified herein are hereby incorporated into and made an integral part of this Agreement for all purposes.

18.14 Attorneys' Fees. In the event any action, suit or proceeding is brought by either party hereunder to enforce this Agreement or for failure to observe any of the covenants of this Agreement or to vindicate or exercise any rights or remedies hereunder, the prevailing party in such proceeding shall be entitled to recover from the other party such prevailing party's reasonable attorneys' fees and other reasonable litigation costs (as determined by the court (and not a jury) in such proceeding).

18.15 Choice of Law. This Agreement shall be governed by the internal laws of the State of Arizona without regard to choice of law rules. Licensor has not waived its claims procedures as respects this Agreement. Exclusive proper venue for any action regarding this Agreement shall be Maricopa County Superior Court or a Federal district court sitting in Maricopa County. City and Licensee consent to personal jurisdiction in such court.

18.16 Approvals and Inspections. All approvals, reviews and inspections by Licensor under this Agreement or otherwise are for Licensor's sole benefit and not for the benefit of Licensee, its contractors, engineers or other consultants or agents, or any other person.

18.17 Statutory Cancellation Right. In addition to its other rights hereunder, Licensor shall have the rights specified in A.R.S. §38-511.

18.18 Licensee's Representations and Warranties.

18.18.1 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.

18.18.2 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.

18.18.3 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.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

CITY OF PEORIA, an Arizona municipal corporation

By: _____
Cathy Carlat, Mayor

APPROVED AS TO FORM:

Stephen J. Burg, Acting City Attorney

Its: _____

The foregoing document was acknowledged before me this ____ day of _____, 2016, by _____, in their capacity as _____ of Qwest Broadband Services, Inc., d/b/a/ CenturyLink, a Delaware corporation.
