

**COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
CENTURYLINK COMMUNICATIONS, LLC**

THIS COOPERATIVE PURCHASING AGREEMENT (this "Agreement") is entered into as of July 21, 2015, between the Town of Fountain Hills, an Arizona municipal corporation (the "Town"), and CenturyLink Communications, LLC, a Delaware limited liability company (the "Contractor").

RECITALS

A. After a competitive procurement process, the State of Arizona (the "State") entered into Contract No. ADSPO15-088468 dated July 1, 2015, as amended by that certain Contract Amendment No. 1 (collectively, the "State Contract"), for the Contractor to provide carrier and broadband provider services. A copy of the State Contract is attached hereto as Exhibit A and incorporated herein by reference, to the extent not inconsistent with this Agreement.

B. The Town is permitted, pursuant to Section 3-3-27 of the Town Code, to make purchases under the State Contract, at its discretion and with the agreement of the awarded Contractor, and the State Contract permits its cooperative use by other public entities, including the Town.

C. The Town and the Contractor desire to enter into this Agreement for the purpose of (i) acknowledging their cooperative contractual relationship under the State Contract and this Agreement, (ii) establishing the terms and conditions by which the Contractor may provide the Town with landline telephone service, as more particularly set forth in Section 2 below (the "Services") and (iii) setting the maximum aggregate amount to be expended pursuant to this Agreement related to the Services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Contractor hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until June 30, 2016 (the "Initial Term"), unless terminated as otherwise provided in this Agreement or the State Contract. After the expiration of the Initial Term, this Agreement may be renewed for up to four successive one-year terms (each, a "Renewal Term") if (i) it is deemed in the best interests of the Town, subject to availability and appropriation of funds for renewal in each subsequent year, (ii) the term of the State Contract has not expired or has been extended, and (iii) the parties enter into an amendment extending this Agreement executed by parties with authority to sign on behalf of the party. The

Town must approve any additional one-year term in writing (including any price adjustments approved as part of the State Contract), as evidenced by the Town Manager's signature thereon, which approval may be withheld by the Town for any reason. This Agreement and its obligations hereunder of either party will terminate at the expiration or termination of this Agreement. The Initial Term and any Renewal Term(s) are collectively referred to herein as the "Term." Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

2. Scope of Work. Contractor shall provide the Services under the terms and conditions of the State Contract and any order between the parties, which order cannot modify the terms of this Agreement or the State Contract.

3. Compensation. The Town shall pay Contractor for the Initial Term and for each subsequent Renewal Term, if any, an annual aggregate amount not to exceed \$5,400.00 for the Services at the unit rates set forth in the State Contract. The maximum aggregate amount for this Agreement, including all Renewal Terms, shall not exceed \$27,000.00.

4. Payments. The Town shall pay the Contractor monthly, based upon Services performed and completed to date, and upon submission and approval of invoices. Each invoice shall contain a reference to this Agreement and the State Contract. The invoice statement shall include a record of Services provided in sufficient detail to justify payment. Additionally, invoices submitted without referencing this Agreement and the State Contract will be subject to rejection and may be returned and for reissuance by Contractor.

5. Records and Audit Rights. To ensure that the Contractor and its subcontractors are complying with the warranty under Section 6 below, Contractor's and its subcontractors' books, records, correspondence, accounting procedures and practices related to Section 6 obligations, including the papers of any Contractor and its subcontractors' employees who perform any work or services pursuant to this Agreement (all of the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in Section 6 below. To the extent necessary for the Town to audit Records as set forth in this Section, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying compliance with Section 6, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this Section. The Town shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this Section by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

6. E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and their compliance with the E-verify

requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractors' failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

7. Conflict of Interest. This Agreement may be canceled by the Town pursuant to ARIZ. REV. STAT. § 38-511.

8. Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and a suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

9. Agreement Subject to Appropriation. The Town is obligated only to pay its obligations set forth in the Agreement as may lawfully be made from funds appropriated and budgeted for that purpose during the Town's then current fiscal year. The Town's obligations under this Agreement are current expenses subject to the "budget law" and the unfettered legislative discretion of the Town concerning budgeted purposes and appropriation of funds. Should the Town elect not to appropriate and budget funds to pay its Agreement obligations, this Agreement shall be deemed terminated at the end of the then-current fiscal year term for which such funds were appropriated and budgeted for such purpose and the Town shall be relieved of any subsequent obligation under this Agreement. The parties agree that the Town has no obligation or duty of good faith to budget or appropriate the payment of the Town's obligations set forth in this Agreement in any budget in any fiscal year other than the fiscal year in which the Agreement is executed and delivered. The Town shall be the sole judge and authority in determining the availability of funds for its obligations under this Agreement, provided that in all events, the Town will pay for any Services actually rendered prior to the date that Services are to terminate due to non-appropriation of funds for this Agreement. The Town shall keep Contractor informed as to the availability of funds for this Agreement. The obligation of the Town to make any payment pursuant to this Agreement is not a general obligation or indebtedness of the Town. Contractor hereby waives any and all rights to bring any claim against the Town from or relating in any way to the Town's termination of this Agreement pursuant to this section.

10. Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of this Agreement, the State Contract and invoices, the documents shall govern in the order listed herein. Notwithstanding the foregoing, and in conformity with Section 2 above, unauthorized exceptions, conditions, limitations or provisions in conflict with the terms of this Agreement or the State Contract (collectively, the "Unauthorized Conditions"), other than the Town's project-specific requirements, are expressly declared void and shall be of no force and effect. Acceptance by the Town of any work order or invoice containing any such Unauthorized Conditions or failure to demand full compliance with the terms and conditions set forth in this Agreement or under the State Contract shall not alter such terms and conditions or relieve Contractor from, nor be construed or deemed a waiver of, its requirements and obligations in the performance of this Agreement.

11. Rights and Privileges. To the extent provided under the State Contract, the Town shall be afforded all of the rights and privileges afforded to the State and shall be the "State" (as

defined in the State Contract) for the purposes of the portions of the State Contract that are incorporated herein by reference.

12. Indemnification; Insurance. In addition to and in no way limiting the provisions set forth in Section 11 above, the Town shall be afforded all of the insurance coverage and indemnifications afforded to the State to the extent provided under the State Contract, and such insurance coverage and indemnifications shall inure and apply with equal effect to the Town under this Agreement including, but not limited to, the Contractor's obligation to provide the indemnification and insurance.

13. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (A) delivered to the party at the address set forth below, (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (C) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the Town: Town of Fountain Hills
16705 East Avenue of the Fountains
Fountain Hills, Arizona 85268
Attn: Grady E. Miller, Town Manager

With copy to: GUST ROSENFELD P.L.C.
One East Washington Street, Suite 1600
Phoenix, Arizona 85004-2553
Attn: Andrew J. McGuire, Esq.

If to Contractor: CenturyLink Communications, LLC
20 East Thomas Road, 17th Floor
Phoenix, Arizona 85012
Attn: Kimberly Marona

CenturyLink Communications, LLC
1801 California St, #900
Denver, Colorado 80202
Attn: Legal Dept.

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (A) when delivered to the party, (B) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (C) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first set forth above.

“Town”

TOWN OF FOUNTAIN HILLS,
an Arizona municipal corporation



Grady E. Miller, Town Manager

ATTEST:



Bevelyn J. Bender, Town Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On January 19th, 201~~5~~⁶, before me personally appeared Grady E. Miller, the Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the Town of Fountain Hills.





Notary Public

(Affix notary seal here)

Jennifer Lyons

APR 03 2013
My Commission Expires
Maricopa County
My City Public State of Arizona
JENNIFER LYONS



EXHIBIT A
TO
COOPERATIVE PURCHASING AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
CENTURYLINK COMMUNICATIONS, LLC

[State Contract]

See following pages.