

FRANCHISE AGREEMENT

This Franchise Agreement (“Franchise”) is between Lehi City Corporation, hereinafter referred to as “the Franchising Authority” and Central Telcom Services, LLC, DBA Centracom Interactive CTS hereinafter referred to as “the Grantee.”

WHEREAS The Franchising Authority allows communication and data facilities within the City’s rights-of-way; and

WHEREAS, the Grantee, a telecommunications company, desires to provide enhanced communication and data services to schools and businesses through the use of a fiber optic network; and

WHEREAS, The Franchising Authority hereby acknowledges that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide and maintain the services, facilities, and equipment related to their fiber optic network, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a fiber optic network on the terms set forth herein.

SECTION 1 **Definition of Terms**

1.1 Terms. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

A. “Affiliate” when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

B. “Fiber Optic Network” is a system of fiber optic cables, usually placed in conduits, and the electronic equipment necessary to allow for the transmission of bandwidth (data) and other forms of communications.

“Franchising Authority” means the Lehi City Corporation, or the lawful successor, transferee, or assignee thereof.

C. “Grantee” means Central Telcom Services, LLC, DBA Centracom Interactive , or the lawful successor, transferee, or assignee thereof.

D. "Gross Revenue" means any and all revenue in whatever form, from any source, directly received by the Grantee or Affiliate of the Grantee, derived from the operation of the Fiber Optice Network in any manner that requires use of the Public Ways in the Service Area.

Gross Revenues do not include any fees or taxes which are imposed directly or indirectly on any Subscriber by any governmental unit or agency, and which are collected by the Grantee on behalf of a governmental unit or agency. Gross Revenues do not include franchise fees, or revenue which cannot be collected by the Grantee and are identified as bad debt; provided, that if revenue previously representing bad debt is collected, this revenue shall be included in Gross Revenues for the collection period. Gross Revenues do not include revenues from non-cable services.

E. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

F. "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing and operating the Grantee's Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

G. "Service Area" means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in subsection 3.9.

H. "Standard Installation" is defined as 125 feet from the nearest tap to the Subscriber's terminal.

I. "Subscriber" means a Person who lawfully receives telecommunications services with the Grantee's express permission.

J. "Telecommunications Services" means the delivery and/or transmission of voice, video, or data across the Fiber Optic Network.

SECTION 2 **Grant of Franchise**

2.1 Grant. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to construct and operate a Fiber Optic Network in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Fiber Optic Network. The Franchise does not grant the right to use Franchising Authority poles, conduits or other facilities. A separate Joint Facilities Agreement shall govern the use of such facilities.

2.2 Authority Over Non-Cable Services. To the extent allowed by law, the Franchising Authority shall retain the authority to regulate and receive compensation for Non-Telecommunications Services. If the Grantee is allowed by law and chooses to provide Non-Cable Services, the Grantee and the Franchising Authority agree Grantee will pay to the Franchising Authority the same type of fees at the same rate (including, but not limited to, franchise fees), as are being paid to Franchising Authority by others who are providing the same or competitively similar Non-Telecommunications Services in accordance with applicable law. Notwithstanding the above, nothing in this paragraph shall be construed as waiving Grantee's right to dispute a fee that the City cannot legally impose.

2.3 Other Ordinances. The Grantee agrees to comply with the terms of Lehi City Code, Chapters 3.36, 5.08, 5.60, 5.64, and any other lawfully adopted generally applicable local ordinance, to the extent that the provisions of any ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. To the extent that the provisions of the Franchise conflict with Lehi City Code, Chapters 3.36, 5.08, 5.60, 5.64, the provisions of this Franchise shall control, including, but limited to those express exemptions granted in "Appendix A", attached hereto and by this reference incorporated herein and made part hereof. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, the Franchise shall control, provided however that the Grantee agrees that it is subject to the lawful exercise of the police power of the Franchising Authority.

2.4 Unfair Competition. The Franchising Authority shall provide competitively neutral access under the Franchise such that the terms or conditions imposed on a competing cable operator are not so favorable or less burdensome as to create unfair

competition between that operator and the Grantee of this Franchise. Grantee, for its part, agrees not to engage in any illegal, deceptive or unfair trade practice.

2.5 Term. The Franchise granted hereunder shall be for an initial term of five (5) years commencing on the effective date of the Franchise as set forth in subsection 8.6, unless otherwise lawfully terminated in accordance with the terms of this Franchise.

SECTION 3 **Standards of Service**

3.1 Conditions of Occupancy. The Fiber Optic Network installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

3.2 Restoration of Public Ways and Private Property. If during the course of the Grantee's construction, operation, or maintenance of the Fiber Optic Network there occurs a disturbance of any Public Way or private property by the Grantee, Grantee shall replace and restore such Public Way or private property to a condition reasonably comparable to the condition of the Public Way or private property existing immediately prior to such disturbance.

3.3 Relocation for the Franchising Authority. Upon its receipt of reasonable advance written notice, to be not less than five (5) business days, the Grantee shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public structures or improvements which are not used to compete with the Grantee's services. Upon consent by the Franchising Authority, the Grantee may have the right to abandon its underground facilities where it has been proven not to be technically or economically feasible to remove said facilities.

3.4 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than ten (10) business days in the event of a temporary relocation, and no less than one ninety (90) days for a permanent relocation.

3.5 Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Fiber Optic Network.

3.6 Safety Requirements. Construction, operation, and maintenance of the Fiber Optic Network shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code. The Fiber Optic Network shall not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

3.7 Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its Fiber Optic Network underground. Nothing contained in this Section shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

3.9 Reimbursement of Costs. If funds are available to any Person using the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Grantee.

SECTION 4 **Regulation by the Franchising Authority**

4.1 Franchise Fee.

A. Except as otherwise provided by federal or state law or Lehi City Ordinance, the Grantee shall pay to the Franchising Authority a franchise fee of five percent (5%) of annual Gross Revenue for data and video services and three and one-half percent (3.5%) of annual Gross Revenue for voice services (as defined in subsection 1.1 of this Franchise). In accordance with the Cable Act, the twelve (12) month period applicable under the Franchise for the computation of the franchise fee shall be a calendar year. The franchise fee payment shall be due quarterly and payable within sixty (60) days after the close of the preceding calendar quarter. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

B. **Limitation on Franchise Fee Actions.** The period of limitation for recovery of any franchise fee payable hereunder shall be three (3) years from the date on which payment by the Grantee is due.

4.2 Renewal of Franchise. This Franchise Agreement shall automatically renew for successive five (5) year increments unless terminated by either party by written notice at least 180 days prior to the end of the term. Renewal of the franchise shall not be unreasonably withheld.

4.3 Transfer of Franchise. The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall notify the Grantee in writing of any additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the Franchising Authority shall be deemed given.

Grantee shall promptly notify the Franchising Authority of any actual or proposed change in, or transfer of, or acquisition by any other party of, control of Grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner. Every change, transfer, or acquisition of control of Grantee shall make the Franchise subject to cancellation unless and until the Franchising Authority shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition or control, the Franchising Authority may inquire into the qualifications of the prospective controlling party to the extent permitted by federal law and Grantee shall assist the Authority in any such inquiry.

SECTION 5 **Books and Records**

(A) The Grantee agrees that the Franchising Authority, upon thirty (30) days written notice to the Grantee, may review such of its books and records at the Grantee's business office, during normal business hours and on a nondisruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the section of the Franchise which is under review, so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at

the appropriate location. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing Cable Service in the Service Area. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

(B) If the Grantee initiates or the FCC requires or another federal or state agency requires or requests the submission of reports, filings, data, or other information by Grantee, then Grantee shall make available these reports, data, or other information to Franchising Authority with reasonable notice to Grantee. However, unless specifically required by the state, Grantee shall not be required to submit state or federal tax returns, or any information exempted under federal privacy laws, including Section 631 of the CCPA (codified at 47 USC 551) absent the written consent of affected subscribers.

(C) With respect to reports required by this ordinance, it is noted that Grantee shall make available to the Franchising Authority the following:

- (1) an annual compliance statement;
- (2) a periodic gross revenue statement in the manner set forth in this Franchise Agreement;

(D) Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee to it as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof.

SECTION 6

Insurance and Indemnification

6.1 Insurance Requirements. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of \$2,000,000 combined single limit for bodily injury and property damage. The Franchising Authority shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Fiber Optic Network, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) days of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.

6.3 Bonds and Other Surety. Except as expressly provided herein, the Grantee shall not be required to obtain or maintain bonds or other surety as a condition of being awarded the Franchise or continuing its existence. The Franchising Authority acknowledges that the legal, financial, and technical qualifications of the Grantee are sufficient for compliance with the terms of the Franchise and the enforcement thereof. The Grantee and the Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for services. In order to minimize such costs, the Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need therefore. The Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregate amount greater than \$10,000, as a condition of being awarded the Franchise, conditioned upon the substantial performance of the material terms, covenants, and conditions of the Franchise. Initially, no bond or other surety will be required. In the event that a bond or other surety is required in the future, as a condition of being awarded or maintaining the Franchise, the Franchising Authority agrees to give the Grantee at least 60 days prior written notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in the Grantee's legal, financial, or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Franchise or afford compliance therewith.

SECTION 7

Enforcement and Termination of Franchise

7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

7.2 The Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in subsection 7.1: (A) to respond to the

Franchising Authority, contesting the assertion of noncompliance, or (B) to cure such default, or (C) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

7.3 Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 7.1 pursuant to the procedures set forth in subsection 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to 7.2(C) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide the Grantee the opportunity to be heard.

7.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in subsection 7.3, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise in accordance with subsection 7.5.

7.5 Revocation. Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in subsections 7.1-7.4 above, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the Franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority *de novo*. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

7.6 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or Subscribers.

SECTION 8 **Miscellaneous Provisions**

8.1 Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.2 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority. Amendments to this Franchise shall be mutually agreed to in writing by the parties.

8.3 Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, or c) within five (5) business days after having been posted in the regular mail.

The notices or responses to the Franchising Authority shall be addressed as follows:

Mayor
Lehi City Corporation
153 N. 100 E.
Lehi, UT 84043

with a copy to:

City Attorney
Lehi City Corporation
153 N. 100 E.
Lehi, UT 84043

The notices or responses to the Grantee shall be addressed as follows:

General Counsel
CentraCom Interactive
35 South State
PO Box 7
Fairview, UT 84629

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

8.4 Descriptive Headings. The captions to Sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.5 Severability. If any Section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

8.6 Effective Date. The effective date of this Franchise is _____ pursuant to the provisions of applicable law

[Signature Page Follows]

Considered and approved this 19th day of July, 2010.

LEHI CITY CORPORATION

By: Bert Wilson
Bert Wilson
Its Mayor

Attest: Connie Ashton
Lehi City Recorder

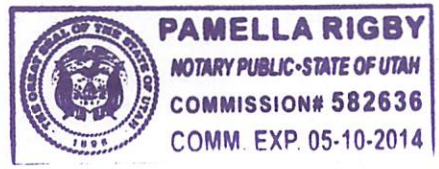
CENTRAL TELCOM SERVICES, LLC, DBA CENTRACOM INTERACTIVE CTS

By: I. Branch Cox
I. Branch Cox Its Chairmant and CEO

Accepted this 4th day of August, 2010, subject to applicable federal, state and local law.

State of Utah)
 :ss.
County of Utah)

The foregoing instrument was acknowledged before me this 4th day of August, 2010, for and in behalf of Central Telcom Services, LLC, DBA Centracom Interactive CTS Inc. I. Branch Cox, its Chairman and CEO, who duly acknowledged to me that having received proper authorization from Central Telcom Services, LLC, DBA Centracom Interactive CTS Inc., he signed this instrument for and in behalf of the corporation, and that the execution of the instrument is the act of the corporation for the purposes stated in it.



Pamela Rigby
Notary Public

Travis Ball

From: scox@cut.net
Sent: Wednesday, July 14, 2010 10:58 AM
To: Travis Ball
Subject: Re: Section 4 Question

Hey Travis,

Sorry I have been out of town all week. Yes, I believe we can separate the charges for the different lines of business and that should clear up any potential problems. That definitely works for us.

Spencer

Sent from my BlackBerry Smartphone provided by Alltel

From: "Travis Ball" <tball@lehi-ut.gov>
Date: Wed, 14 Jul 2010 10:38:05 -0600
To: Spencer Cox<scox@cut.net>
Subject: Section 4 Question

Spencer,

Could you look at section 4. Is it possible to separate the charges for video, data, and voice for franchise fee purposes. We spoke with Comcast to determine how they calculated the fee and they represented it was separated into the three parts.

The Utah Code under question is UCA 10-1-403 (1)(c).

Thanks,
Travis