

**FRANCHISE AGREEMENT BETWEEN
SALEM CITY and CENTRAL TELCOM SERVICES, LLC DBA CENTRACOM**

THIS FRANCHISE AGREEMENT (hereinafter "Agreement") is entered into by and between Salem City, Utah (hereinafter "CITY"), a municipal corporation and political subdivision of the State of Utah, with principal offices at 30 West 100 South, P.O. Box 901, Salem, Utah, 84653, and Central Telcom Services, LLC, DBA CentraCom (hereinafter "PROVIDER") with its principal offices at 35 South State Street, P.O. Box 7, Fairview, Utah 84629.

WITNESSETH:

WHEREAS, the PROVIDER desires to provide voice, data, or video transmission services within the CITY and in connection therewith to establish a telecommunications network in, under, along, over, and across present and future rights-of-way of the CITY; and

WHEREAS, the CITY has enacted Title 6, Chapter 9 of the Salem Municipal Code (hereinafter the "Telecommunication Rights-of-Way Ordinance") which governs the application and review process for Telecommunication Franchises in the CITY; and

WHEREAS, the CITY, in exercise of its management of public Rights-of-Way, believes that it is in the best interest of the public to provide the PROVIDER a nonexclusive franchise to operate a telecommunications network in the CITY.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, and for other good and valuable consideration, the CITY and the PROVIDER agree as follows:

ARTICLE 1. FRANCHISE AGREEMENT AND ORDINANCE.

1.1 Agreement. Upon execution by the parties, this Agreement shall be deemed to constitute a contract by and between CITY and PROVIDER.

1.2 Ordinance. The CITY has adopted the Telecommunications Rights-of-Way Ordinance which is attached to this Agreement as Exhibit "A" and incorporated herein by reference. The PROVIDER acknowledges that it has had an opportunity to read and become familiar with the Telecommunications Rights-of-Way Ordinance. The parties agree that the provisions and requirements of the Telecommunications Rights-of-Way Ordinance are material terms of this Agreement, and that each party hereby agrees to be contractually bound to comply with the terms of the Telecommunications Rights-of-Way Ordinance, as it is or may be amended, as outlined by section 1.3 of this Agreement. The definitions in the Telecommunications Rights-of-Way Ordinance shall apply herein unless a different meaning is indicated. Nothing in this Section shall be deemed to require the PROVIDER to comply with any provision of the Telecommunications Rights-of-Way Ordinance which is determined, by a court of law, to be unlawful or beyond the CITY's authority.

1.3 Ordinance Amendments. The CITY reserves the right to amend the Telecommunications Rights-of-Way Ordinance at any time. The CITY shall give the PROVIDER advanced written notice and an opportunity to be heard concerning any proposed amendment. If there is any inconsistency between the PROVIDER's rights and obligations under the Telecommunications Rights-of-Way Ordinance as amended and this Agreement, the provisions of this Agreement shall govern during its term. Otherwise, the PROVIDER agrees to comply with any such amendments.

1.4 Franchise Description. The Telecommunications Franchise provided hereby shall confer upon the PROVIDER the nonexclusive right, privilege, and franchise to construct and maintain a telecommunications network in, under, above, and across the present and future public Rights-of-Way in the City. The franchise does not grant to the PROVIDER the right, privilege, or authority to engage in community antenna (or cable) television business; although, nothing contained herein shall preclude the PROVIDER from: (1) permitting those with a cable franchise who are lawfully engaged in such business to utilize the PROVIDER's System within the CITY for such purposes; or (2) from providing such service in the future if an appropriate franchise is obtained and all other legal requirements have been satisfied.

1.5 Licenses. The PROVIDER acknowledges that it has obtained the necessary approvals, licenses, or permits required by federal and state law to provide telecommunication services consistent with the provisions of this Agreement and with the Telecommunications Rights-of-Way Ordinance.

1.6 Relationship. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties and neither party is authorized to, nor shall either party act toward third persons or the public in any manner that would indicate any such relationship with each other.

ARTICLE 2. FRANCHISE FEE.

2.1 Franchise Fee. For the Franchise granted herein, the PROVIDER shall pay to the CITY a fee of 3.5% of gross receipts in accordance with Salem Municipal Code §3-8-010 and the formula established by the Utah Municipal Telecommunication License Tax Act. Changes in the rate shall follow the requirements of the Utah Municipal Telecommunication License Tax Act (Utah Code Ann. §§10-1-401 to10-1-410). All payments shall be made to the Utah State Tax Commission, whose current address is as follows:

Utah State Tax Commission
210 North 1950 West
Salt Lake City, Utah 84134

Payments are due to the Utah State Tax Commission within forty-five (45) days after receipt by PROVIDER. Interest will accrue on late payments at the rate of one (1) percent per month until paid.

2.2 Equal Treatment. CITY agrees that if any service forming part of the base for calculating a franchise fee or Municipal Telecommunications License Tax under this Agreement is, or becomes, subject to competition from a third party, the CITY will impose and collect from such third party a fee or tax on Gross Receipts from such competing service in the same percentage specified herein.

ARTICLE 3. TERM AND RENEWAL.

3.1 Term and Renewal. The franchise granted to PROVIDER shall be for a period of ten (10) years commencing on the first day of the month following this Agreement, unless this Franchise be sooner terminated as herein provided. At the end of the initial ten (10) year term of this Agreement, the franchise granted herein shall be automatically renewed by the PROVIDER upon the same terms and conditions as contained in this Agreement for an additional five (5) year term, unless the PROVIDER provides written notice to CITY's representative designated herein of the PROVIDERS's intent to terminate not less than one hundred eighty (180) calendar days before the expiration of the initial franchise term.

3.2 Rights of PROVIDER Upon Expiration or Revocation. Upon expiration of the franchise granted herein, whether by lapse or time, by agreement between the PROVIDER and the CITY, or by revocation or forfeiture, the PROVIDER shall have the right, in its sole discretion, to remove from the Rights-of-Way any and all of its System, but in such event, it shall be the duty of the PROVIDER, immediately upon such removal, to restore the Rights-of-Way from which such System is removed to as good condition as the same was before the removal was effected. In the event PROVIDER chooses to remove from the Rights-of-Way any or all of its system, PROVIDER will provide notice to CITY.

ARTICLE 4. POLICE POWERS.

The CITY expressly reserves, and the PROVIDER expressly recognizes, the CITY's right and duty to adopt, from time to time, in addition to provisions herein contained, such ordinances and rules and regulations as the CITY may deem necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties.

ARTICLE 5. CHANGING CONDITIONS AND SEVERABILITY.

5.1 Meet to Confer. The PROVIDER and the CITY recognize that many aspects of the telecommunication business are currently the subject of discussion, examination and inquiry by different segments of the industry and affected regulatory authorities and that these activities may ultimately result in fundamental changes in the way the PROVIDER conducts its business and the way the CITY regulates the business. In recognition of the present state of uncertainty respecting these matters, the PROVIDER and the CITY each agree, upon request of the other during the term of this Agreement, to meet with the other and discuss in good faith whether it would be appropriate, in view of developments of the kind referred to above during the term of this Agreement, to amend this Agreement or enter into separate, mutually satisfactory arrangements to effect a proper accommodation of any such developments.

5.2 Severability. If any section, sentence, paragraph, term or provision of this Agreement or the Telecommunications Rights-of-Way Ordinance is for any reason determined to be or rendered illegal, invalid, or superseded by other lawful authority, including any state or federal, legislative, regulatory or administrative authority having jurisdiction thereof, or is determined to be unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision, all of which shall remain in full force and effect for the term of this Agreement or any renewal or renewals thereof. Provided that if the invalidated portion is considered a material consideration for entering into this Agreement, the parties will negotiate, in good faith, an amendment to this Agreement. As used herein, “material consideration” for the CITY is its ability to collect a Franchise Fee or the Municipal Telecommunications License Tax during the term of this Agreement and its ability to manage the Rights-of-Way in a manner similar to that provided in this Agreement, the Telecommunications Rights-of-Way Ordinance, and the City’s Excavation Permit Ordinance. For the PROVIDER, “material consideration” is its ability to use the Rights-of-Way for telecommunication purposes in a manner similar to that provided in this Agreement, the Telecommunications Rights-of-Way Ordinance, and the CITY’s Excavation Permit Ordinance.

**ARTICLE 6. EARLY TERMINATION, REVOCATION OF FRANCHISE
AND OTHER REMEDIES.**

6.1 Grounds for Termination. The CITY may terminate or revoke this Agreement and all rights and privileges herein provided for any of the following reasons:

(a) The PROVIDER fails to make timely payments of the franchise fee or the Municipal Telecommunications License Tax as required under Article 2 of this Agreement and does not correct such failure within sixty (60) calendar days after written notice by the CITY of such failure;

(b) The PROVIDER, by act or omission, materially violates a material duty herein set forth in any particular within the PROVIDER’s control, and with respect to which redress is not otherwise herein provided. In such event, the CITY, acting by or through its CITY Council, may determine, after hearing, that such failure is of a material nature, and thereupon, after written notice giving the PROVIDER notice of such determination, the PROVIDER, within sixty (60) calendar days of such notice, shall commence efforts to remedy the conditions identified in the notice and shall have ninety (90) calendar days from the date it receives notice to remedy the conditions, provided that if the failure, violation or default cannot reasonably be cured within such ninety (90) day period, the PROVIDER will not be in default so long as it commences the cure within such period and pursues it diligently to completion. After the expiration of such 90-day period and failure to correct such conditions, the CITY may declare the franchise forfeited and this Agreement terminated, and thereupon, the PROVIDER shall have no further rights or authority hereunder; provided, however, that any such declaration of forfeiture and termination shall be subject to judicial review as provided by law, and provided further, that in the event such failure is of such nature that it cannot be reasonably corrected

within the 90-day time period provided above, the CITY shall provide additional time for the reasonable correction of such alleged failure if the reason for the noncompliance was not the intentional or negligent act or omission of the PROVIDER; or

(c) The PROVIDER becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its facilities should be sold under an instrument to secure a debt and is not redeemed by the PROVIDER within sixty (60) days.

6.2 Reserved Rights. Nothing contained herein shall be deemed to preclude the PROVIDER from pursuing any legal or equitable rights or remedies it may have to challenge the action of the CITY.

6.3 Remedies at Law. In the event the PROVIDER or the CITY fails to fulfill any of its respective obligations under this Agreement, the CITY or the PROVIDER, whichever the case may be, shall have a breach of contract claim and remedy against the other, in addition to any other remedy provided herein or by law; provided, however, that no remedy that would have the effect of amending the specific provisions of this agreement shall become effective without such action that would be necessary to formally amend the Agreement.

6.4 Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of the CITY and the PROVIDER. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

ARTICLE 7. PARTIES' DESIGNEES.

7.1 CITY designee and Address. The City Manager or his or her designee(s) shall serve as the CITY's representative regarding administration of this Agreement. Unless otherwise specified herein or in the Telecommunications Rights-of-Way Ordinance, all notices from the PROVIDER to the CITY pursuant to or concerning this Agreement, shall be delivered to the CITY's representative at Spanish Fork City, Attn: City Manager, 40 S. Main, Spanish Fork, Utah 84660, or such other officer and address as the CITY may designate by written notice to the PROVIDER.

7.2 PROVIDER Designee and Address. The PROVIDER's Chief Executive Officer or his or her designee(s) shall serve as the PROVIDER's representative regarding administration of this Agreement. Unless otherwise specified herein or in the Telecommunications Rights-of-Way Ordinance, all notices from the CITY to the PROVIDER pursuant to or concerning this Agreement, shall be delivered to PROVIDER's headquarter offices at 35 South State Street, Fairview, Utah 84629, and such other office as the PROVIDER may designate by written notice to the CITY.

7.3 Failure of Designee. The failure or omission of the CITY's or PROVIDER's representative to act shall not constitute any waiver or estoppels by the CITY or PROVIDER.

ARTICLE 8. INSURANCE AND INDEMNIFICATION

8.1 Insurance. Prior to commencing operations in the CITY pursuant to this Agreement, the PROVIDER shall furnish to the CITY evidence that it has adequate general liability and property damage insurance. The evidence may consist of a statement that the PROVIDER is effectively self-insured if the PROVIDER has substantial financial resources, as evidenced by its current certified financial statements and established credit rating, or substantial assets located in the State of Utah. Any and all insurance, whether purchased by the PROVIDER from a commercial carrier, whether provided through a self-insured program, or whether provided in some other form or other program, shall be in a form, in an amount and of a scope of coverage acceptable to the CITY.

8.2 Indemnification. The PROVIDER agrees to indemnify, defend and hold the CITY harmless from and against any and all claims, demands, liens, and all liability or damage of whatsoever kind on account of or arising from the PROVIDER's acts or omissions pursuant to or related to this Agreement, and to pay any and all costs, including reasonable attorneys' fees, incurred by the CITY in defense of such claims. The CITY shall promptly give written notice to the PROVIDER of any claim, demand, lien, liability, or damage, with respect to which the CITY seeks indemnification and, unless in the CITY's judgment a conflict of interest may exist between the parties with respect to the claim, demand, lien, liability, or damage, the CITY shall permit the PROVIDER to assume the defense of such with counsel of the PROVIDER's choosing, unless the CITY reasonably objects to such counsel. Notwithstanding any provision of this Section to the contrary, the PROVIDER shall not be obligated to indemnify, defend or hold the CITY harmless to the extent any claim, demand, lien, damage, or liability arises out of or in connection with negligent acts or omissions of the CITY.

ARTICLE 9. INSTALLATION

9.1 Coordinated Installation. In order to prevent and/or minimize the number of cuts to and excavations within the CITY Rights-of-Way, PROVIDER shall coordinate with the CITY and other providers or users of the CITY Rights-of-Way, when such cuts and excavations will be made. Unless otherwise permitted, installation, repairs, or maintenance of lines and facilities within the CITY Rights-of-Way shall be made in the same trench and at the time other installations, repairs or maintenance of facilities are conducted within the CITY Rights-of-Way.

9.2 Underground Installation. Unless otherwise authorized by CITY, all of PROVIDER's facilities within the CITY shall be constructed underground. Notwithstanding the provisions of Article 1.3 of this Agreement, PROVIDER expressly agrees to install and maintain all of its facilities in accordance with CITY Ordinances regarding the undergrounding of utility lines, in effect at the time this Agreement is entered into and as subsequently amended during the term of this Agreement. Nothing herein shall require PROVIDER to convert existing overhead facilities to underground facilities until and unless other similarly situated providers in the same location are required to do so. PROVIDER agrees to obtain the proper excavation permit from CITY and pay the applicable fee prior to excavating.

ARTICLE 10. GENERAL PROVISIONS

10.1 Binding Agreement. The parties represent that: (a) when executed by their respective parties, this Agreement shall constitute legal and binding obligations of the parties; and (b) each party has complied with all relevant statutes, ordinances, resolutions, by-laws and other legal requirements applicable to their operation in entering into this Agreement.

10.2 Utah Law. This Agreement shall be interpreted pursuant to Utah law.

10.3 Time of Essence. Time shall be of the essence of this Agreement.

10.4 Interpretation of Agreement. The invalidity of any portion of this Agreement shall not prevent the remainder from being carried into effect, so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to either party. Whenever the context of any provision shall require it, the singular number shall be held in include the plural number and vice versa, and the use of any gender shall include any other and all genders. The paragraphs and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

10.5 No Presumption. All parties have participated in preparing this Agreement. Therefore, the parties stipulate that any court interpreting or construing the Agreement shall not apply the rule of construction that the Agreement should be more strictly construed against the drafting party.

10.6 Amendments. This Agreement may be modified or amended by written agreement only. No oral modifications or amendments shall be effective.

10.7 Binding Agreement. This Agreement shall be binding upon the heirs, successors, administrators and assigns of each of the parties.

SIGNED AND ENTERED INTO this 9 day of December, 2015

“CITY”
SALEM CITY

By: *Randy Brailsford*
RANDY BRAILSFORD, Mayor

ATTEST:

Jeff Nielson
Jeff Nielson, City Recorder



“PROVIDER”

Central Telcom Service, LLC,
DBA CentraCom

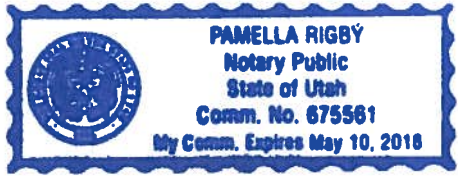
By: *Eddie Cox*
Eddie Cox, President

CORPORATE ACKNOWLEDGMENT

STATE OF Utah)

COUNTY OF Sanpete) :SS.

On the 1st day of December, 2015 personally appeared before me Eddie Cox, who being by me duly sworn did say that he is the President of Central Telcom Services, LLC, DBA CentraCom, and that the foregoing instrument was signed on behalf of said company by authority of its board of directors and/or its company documents; and he acknowledged to me that said company executed the same.



Pamella Rigby
Notary Public
My Commission Expires: 5/10/2018

EXHIBIT "A"
Telecommunications Rights-of-Way Ordinance