



Via Email Delivery. This Agreement supersedes previously dated Agreements.

April 1, 2019

Tesha Humphriss
Project Manager
City of Ann Arbor
301 E. Huron Street
P.O. Box 8647
Ann Arbor, MI, 48107-8647

Re: CenturyLink Communications, LLC, including its affiliates and subsidiary companies ("CENTURYLINK") Telecommunications Facility Relocation – CenturyLink Fiber Cable – Allen Creek RR Berm Opening Project, Ann Arbor, MI.

Dear **Tesha Humphriss**:

City of Ann Arbor (the "Requestor") has contacted CenturyLink regarding relocation and/or adjustment of fiber optic lines (the "Facilities") located in the vicinity of: **between MP 37.0 and PM 38.0 at approximately MP 37.4 along the Amtrak/Michigan Line**, rights of way (the "ROW") within the city of **Ann Arbor**, in the state of "**Michigan**", owned and operated for the purposes of utilities by **Norfolk Southern Corporation** ("ROW Provider") for the benefit of the Allen Creek Railroad Berm Opening Project, a site development project.

The current location of the Facilities in the ROW is set forth in the description attached hereto as Exhibit "A". CenturyLink will relocate its Facilities to an alternative location in such manner to avoid all possible known conflicts between the Facilities and the Requestor's site improvements. The new location will be agreed upon by the ROW Provider and CenturyLink and shall be located within property owned and under the control of the ROW Provider (the "New Facility Location") attached hereto as Exhibit "B", provided that:

- (1) ROW Provider first grants to CenturyLink the complete authority to relocate its Facilities to the New Facility Location.
- (2) CenturyLink's contractor (or ROW Provider) will coordinate and perform all relocation work (the "Work"). CenturyLink will use reasonable efforts to perform all Work from within the ROW Provider's right of way; however, where CenturyLink is required to perform the Work from a third party's property, CenturyLink will endeavor to do so at Requestor's sole cost and expense. In addition, CenturyLink shall be permitted to perform the Work from Requestor's or others property. Where CenturyLink performs the Work from Requestor's or others property, CenturyLink will use reasonable efforts to minimize the impact of such Work thereon
- (3) Requestor will first provide CenturyLink with a check in the amount of **\$31,723.71 USD** prior to CenturyLink performing any Work. Such amount reflects the estimated cost and expense of performing the Work.



The check should be made out to CenturyLink Communications, LLC and sent to the undersigned at the address listed below.

(4) UPON COMPLETION, PROVIDED THAT THE FACILITIES HAVE BEEN MOVED TO AVOID ALL POSSIBLE KNOWN CONFLICTS BETWEEN THE FACILITIES AND THE REQUESTOR'S SITE IMPROVEMENTS AS PROVIDED IN THIS AGREEMENT, REQUESTOR ACCEPTS THE WORK "AS IS". CenturyLink MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, WITH RESPECT TO THE WORK OR AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.

(5) In the event that circumstances arise that cause the cost and expense of performing the Work to exceed the estimate, Level 3 will make an adjustment to the estimate and provide Requestor with documentation describing the basis for adjustment. Requestor will pay such additional amounts within thirty (30) days of receiving written notice from CentruyLink. A failure to pay such amount shall cause same to bear interest from the due date until payment is received at a rate of one and one half percent (1 1/2%) per month (or part thereof). Notwithstanding, any increase in costs or expenses estimated to cause the total expenditure to exceed \$87,000 shall require Requestor's written agreement. If Requestor declines to agree to the increase, Requestor shall be responsible only for costs and expenses incurred by CenturyLink in performing the Work up to the total amount of \$87,000.

(1) (6) To the extent permitted by law, Requestor will indemnify, defend and hold CenturyLink, its affiliates, employees, invitees, contractors, subcontractors, agents, representatives and servants harmless from and against any loss, cost, damage and expense of whatever kind, including, but not limited to, the cost of obtaining any authorizations required by ROW Provider or any other entity, arising directly or indirectly (collectively "Claims") from (a) the Work, (b) the use or occupancy of the New Facility Location, and/or (c) Requestor's failure to perform under this Agreement. This indemnification will be limited to such claims or damages that arise from the sole or partial negligence, actions, or inaction of the Requestor or Requestor's affiliates, employees, invitees, contractors, subcontractors, agents, representatives and servants. Such Claims shall include attorneys' fees and court costs. The provisions of this paragraph (6) shall survive the performance of the Work.

(2) Each party shall obtain and maintain during the course of Work, the following insurance: (a) Commercial General Liability (for bodily injury) with combined single limit of not less than \$5,000,000.00 (including excess liability coverage) each occurrence or its equivalent; (b) Worker's Compensation in amounts required by applicable law and Employer's Liability with a limit of at least \$1,000,000.00 each accident; and (c) Automobile Liability including coverage for owned/leased, non-owned or hired automobiles with combined



single limit of not less than \$1,000,000.00 each accident.

(8) The execution of this letter agreement by the parties' representatives and their performance hereunder (a) has been duly authorized by requisite action, (b) will not require any additional approval on the part of the parties, and (c) will not violate any provision of law, any regulation or any contract or other obligation.

(9) This letter agreement constitutes the complete legal, valid, and binding obligation of the parties hereto and is enforceable against the parties in accordance with the terms hereof. Except to the extent herein provided, no amendment, supplement, modification, or termination of this letter agreement shall be enforceable unless executed in writing by both parties.

(10) If any part of this letter agreement is held by a court of competent jurisdiction to be invalid or otherwise unenforceable, the court shall interpret the terms hereof to give the greatest effect to the parties' intentions in entering into this letter agreement.

(11) This letter agreement shall be construed under the laws of the State of **Michigan**.

(12) This letter agreement shall become effective on the date executed by Requestor.

(13) In the area of Requestor's site development, CenturyLink is the holder of the easements recorded at Liber 4953, Page 364 and Liber 5000, Page 560 Washtenaw County Records. CenturyLink consents to Requestor's site development within the area of these easements.

Please acknowledge your acceptance of the foregoing terms and conditions by signing this letter agreement and delivering a check in the amount set forth above to the undersigned. CenturyLink will countersign this agreement and thereafter work with ROW Provider and **City of Ann Arbor** to coordinate a construction start date and the times for performing the work.

Sincerely,

Tim Hill

Project Manager, Relocations
Global Field Services
CenturyLink
1025 Eldorado Blvd
Attn: Relocations Department
Broomfield, CO 80021



APPROVED AND AGREED TO:

CenturyLink, LLC

Name: Jason Johns

Signature: _____

Title: Mgr Relo/Cost Recovery

Date: _____

For City of Ann Arbor

By _____
Christopher Taylor, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

By _____
Howard S. Lazarus, City Administrator


By _____
Craig Hupy, Public Service Area Administrator

Approved as to form and content

By _____

Exhibit "C"

(Cost Estimate)

 CenturyLink®		Relocation Project Cost Estimate - URA
Relocation Project Tracking #:	40241	
FW Project Name:	RELO CTL - LH - GL70241: Allen Creek RR Berm Opening Project	
Customer Name:	City of Ann Arbor	
Internal Project Code	N.457384.C.27	
GL Code:	82441000	
Construction Netbuild #:	N402318	
Legacy Network Builder:	CenturyLink Communications LLC	
RELO PM Contact Info:	Tim Hill; 704-733-3204	
Invoice Number:	RELO_115-190025	
Customer Number:		
Description	Cost	
Outside Plant Construction / Materials	\$11,600.00	
Engineering	\$3,568.00	
Railroad Permit and Fees	\$7,800.00	
Inspector	\$1,360.00	
Subtotal:	\$24,328.00	
Internal Cost Percentage	30.40%	
CenturyLink Internal G&A Cost	\$7,395.71	
Total payment due:	\$31,723.71	

* Estimate does not include any rock adders and will be reviewed if encountered.

General instructions for requestor:

1. Agreement must be scanned back in color to RELO PM – via email for counter execution.
2. Please do not mail agreement as I am remote, and this may delay your project timeline in final execution.
3. Either the CenturyLink or Level 3, W-9 is included as page 2 of the invoice for your Accounts Payable team use and check payable info.
4. Please scan/email a copy of your check to Tim Hill RELO PM, before mailing.
5. Please remit copy of this invoice with your payment. Place both into a UPS letter envelope, affix provided prepaid label and drop at any UPS collection site.

Remit copy of invoice with payment via prepaid UPS return service label to:

CenturyLink Communications
 Attn: Ashley Tran; 4000-41C-301 / RELO
 1025 Eldorado Blvd.
 Broomfield, CO 80021