

## ORDINANCE NO. 1405

### **AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, GRANTING A TELECOMMUNICATIONS FRANCHISE EXTENSION TO CENTURYTEL OF WASHINGTON, INC. d/b/a CENTURYLINK, HEREFTER "CENTURYLINK," AND FIXING AN EFFECTIVE DATE.**

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WHEREAS, the City of Gig Harbor (the "City") granted a telecommunications franchise to Telephone Utilities of Washington, Inc. d/b/a PTI Communications Company, Inc. by way of Ordinance No. 620 in effective March, 2, 1992 (the "Franchise"); and

WHEREAS, Telephone Utilities of Washington, Inc. changed its name to CenturyTel of Washington, Inc. d/b/a CenturyLink on April 17, 1998; and

WHEREAS, CenturyTel of Washington, Inc. d/b/a CenturyLink operates the telecommunications facilities in the City of Gig Harbor under the Franchise for the purposes of providing telephone and Internet services in and through the City of Gig Harbor; and

WHEREAS, the Franchise granted by Ordinance No. 620 was previously extended until April 1, 2017 and then again until October 1, 2018; and

WHEREAS, both the City and CenturyLink desire to negotiate a new franchise but do not desire to interrupt service in the City; and

WHEREAS, the Franchise has currently expired but CenturyLink and the City find it mutually beneficial to extend the existing Franchise for a reasonable period of time in order to promote and facilitate an orderly franchise renewal process; and

WHEREAS, in accordance with Resolution 1103, CenturyLink shall pay for all actual attorney costs to review the Franchise; and

WHEREAS, neither party waives any right which it enjoys under law as a result of agreeing to this extension.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Franchise Extension. The term of the telecommunications franchise granted under Ordinance No. 620 (the "Franchise") is hereby extended from the prior extension expiration date of October 1, 2018 up to and through October 1, 2019, or until such time as the parties agree upon terms of a franchise that is enacted by further ordinance and supersedes this Ordinance, whichever occurs sooner.

Section 2. Compliance with Franchise Terms. As a condition of the extension granted by this Ordinance, CenturyLink shall provide its written and acknowledged acceptance and promise to continue complying with all provisions, terms and conditions of the Franchise during this extension period except to the extent the conditions of the Franchise conflict with existing federal or state law, including Chapter 35.99 of the Revised Code of Washington and/or the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 151 *et seq* (collectively, "Applicable Law"). By the adoption of this Ordinance, the City agrees to continue complying with all provisions, terms and conditions of the Franchise during the extension period to the extent required by Applicable Law. All previous provisions in Ordinance No. 620 shall remain in effect throughout the duration of the Franchise extension as identified in this Ordinance, except for the provision for the duration of the Franchise which will be extended from the prior extension expiration date of October 1, 2018 up to and through October 1, 2019, and except for such terms as may be in conflict with Applicable Law. It is the intent of this extension to cover the period from October 1, 2018, the expiration date of the last extension, through and including October 1, 2019.

Section 3. Performance Bond and Insurance. The Performance Bond and insurance policies provided by CenturyLink pursuant to the Franchise shall remain current and in effect during the extension period.


Section 4. Acceptance. The rights and privileges granted pursuant to this Ordinance shall not become effective until its terms and conditions are accepted by CenturyLink in the form of a written instrument, executed and sworn to by a duly-authorized representative of CenturyLink before a Notary Public, and filed with the City within sixty (60) days after the effective date of this Ordinance. Once properly accepted, the terms of this franchise relate back to the prior extension expiration date of October 1, 2018 consistent with Section 1 above.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

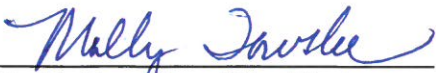
Section 6. Effective Date. This ordinance shall take effect five (5) days after the passage and publication of an approved summary thereof consisting of the title. This extension is expressly conditioned upon the City's receipt of CenturyLink's written acceptance as described in Section 4.

PASSED by the Council and approved by the Mayor of the City of Gig Harbor, this 28<sup>th</sup> day of January, 2019.

CITY OF GIG HARBOR

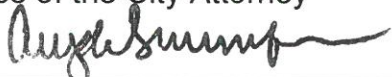
  
\_\_\_\_\_  
Mayor Kit Kuhn

ATTEST/AUTHENTICATED:

  
Molly M. Towslee, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney

  
Angela G. Summerfield

FILED WITH THE CITY CLERK: 01/09/19

PASSED BY THE CITY COUNCIL: 01/28/19

PUBLISHED: 01/31/19

EFFECTIVE DATE: 02/05/19

ORDINANCE NO: 1405

## ACKNOWLEDGEMENT OF EXTENSION OF FRANCHISE

This Acknowledgement of Extension of Franchise is made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between CenturyLink (formerly known as Telephone Utilities of Washington, Inc. and PTI Communications Company, Inc.) ("CenturyLink") and the City of Gig Harbor, Washington, a Washington municipal corporation (the "City").

Whereas, the City conferred a franchise on Telephone Utilities of Washington, Inc., d/b/a PTI Communications Company, Inc. in Ordinance No. 620 (the "Franchise"); and

Whereas, Telephone Utilities of Washington, Inc. changed its name to CenturyTel of Washington, Inc. d/b/a CenturyLink on April 17, 1998; and

Whereas, CenturyTel of Washington, Inc. d/b/a CenturyLink operates the telecommunications facilities in the City of Gig Harbor under the Franchise for the purposes of providing telephone and Internet services in and through the City of Gig Harbor; and

Whereas, the parties wish to agree to extend the Franchise and acknowledge the continued effect of the franchise up to and through October 1, 2019;

Whereas, in accordance with Resolution 1103, CenturyLink shall pay for all actual attorney costs to review the Franchise; and

Now, Therefore, CenturyLink and the City acknowledge and agree as follows:

1. Term. The Franchise is hereby acknowledged and agreed to be extended up to and through October 1, 2019 or until such time as the City has adopted a new franchise ordinance, whichever occurs sooner.

2. Ratification. All terms and conditions of the Franchise are hereby ratified and confirmed, except for the provision for the duration of the Franchise which is hereby extended to October 1, 2019, and except for such terms as may be in conflict with Applicable Law (as defined in the franchise extension, Ordinance 1405). CenturyLink hereby accepts and promises to comply with all such provisions, terms and conditions of the Franchise during the extension period, and shall maintain during this extended term the Performance Bond and insurance policies as described in the Franchise.

CENTURYTEL OF WASHINGTON, INC. d/b/a CENTURYLINK

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

