

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Port of Seattle
PO Box 1209
Seattle, WA 98111

SUBSTITUTE EASEMENT AGREEMENT
FOR TELECOMMUNICATION FACILITIES AT TERMINAL 18 AND
RELEASE OF PRE-EXISTING EASEMENT INTERESTS AND RIGHTS

Reference Nos. of Document Released: 9209212171
Grantor: Port of Seattle
Grantee: Qwest Corporation d/b/a CenturyLink QC
Legal Description (abbreviated): Portion of the vacated SW Lander Street, Seattle
Tide Lands, Located in Section 07-24-04 East, WM,
King County
Assessor's Tax Parcel ID#s. 766670-1880

SUBSTITUTE EASEMENT

This substitute easement ("Easement") is made this _____ day of _____, 20__, by and between The Port of Seattle, a municipal corporation of the State of Washington ("Grantor"), and Qwest Corporation, d/b/a CenturyLink QC, a Colorado Corporation ("Grantee"), hereafter, when applicable, referred to as "Parties".

RECITALS

WHEREAS, Grantor petitioned the City of Seattle to vacate various rights of way, including portions of 11th Avenue Southwest, 13th Avenue Southwest, Southwest Florida Street, and Southwest Hanford Street on Harbor Island as part of its Terminal 18 Redevelopment Project, as more particularly described in the vacation petition to the City of Seattle Clerk File No. 301929; and

WHEREAS, the Grantor owns King County Parcel No. 7666701880, which is subject to City Easements ("City Easements") under King County Recording Nos. 7708250860 and 7708250861, and the eastern half of the easement under King County Recording No. 7708250859; and

WHEREAS, the City of Seattle, acting through its agent, Seattle Public Utilities, a municipal public utility agency, acquired utility easements in 1977, King County, Washington Recording Nos. 7708250859 (Shell Oil Company, original Grantor), 7708250860 (Port of Seattle, original Grantor), 7708250861 (Leckenby Company, original Grantor), collectively "City Easement Area",

during the street vacation of former Southwest Lander Street between 11th Ave Southwest and 13th Ave Southwest (City of Seattle VO 106612), for municipal public sanitary sewer facilities with necessary appurtenances, which are legally described in those recorded documents ("City Easement Area"); and

WHEREAS, In 1992, the Grantor granted an easement (King County Recording No. 9209212171) to U.S. Qwest Communications, Inc., which subsequently merged with CenturyLink, Inc. in 2011, for telecommunications facilities, which is legally described in that recorded document, a portion of which overlaps the City Easement Area; and

WHEREAS, QWEST constructed structures, including a small building housing sensitive fiber optic equipment and underground fiber optic cabling and other appurtenances; and

WHEREAS, the Parties have agreed to establish procedures for accessing the easement area; and

WHEREAS, the Parties have agreed to reduce the size of the CenturyLink's structures to remove any overlap with the City Easement Area.

SUBSTITUTE EASEMENT AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing recitals, the covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Grantor and Grantee hereby agree to the following:

1. The Grantee releases its easement rights for utility facilities as described in interest in the property described in the prior easement, King County Recording No. 9209212171.
2. The Grantor grants and conveys to the Grantee, its successors, assigns, lessees, licensees and agents a perpetual, non-exclusive easement to construct, reconstruct, operate, maintain and remove such telecommunications facilities as the Grantee may require upon, over, under and across the land, shown and described in Exhibit A, which the Grantor owns.
3. Grantee shall have the right of ingress and egress over and across the land, to and from the land described in Exhibit A, and the right to clear and keep clear all trees and other obstructions.
4. Grantee understands and acknowledges that the Easement Area lies within a regulated and secure marine facility under the jurisdiction of the U.S. Customs and Border Protection ("Secured Areas"). Access to Secured Areas is subject to the applicable requirements, as may be amended from time to time. Grantee staff is required to obtain and carry Transportation Worker Identification Credentials ("TWIC") in the Secured Area. Grantee will access the Security Area through Terminal 18, Gate 3, located at 11th Avenue Southwest, near Grantee's easement area.
5. The Grantor, its employees and agents, shall not be liable for any injury (including death) to any persons or for damage to any property regardless of how such injury or damage be caused, sustained or alleged to have been sustained by Grantee or by others (including but not limited to all persons directly or indirectly employed by Grantee, and any of its agents, contractors, subcontractors, licensees, and invitees) arising out of Grantee's use of, and/or activities

conducted pursuant to this easement, however occurring. Grantee shall indemnify, defend and hold the Grantor harmless from all liability and expenses (including attorney's fees, costs, and all expenses of litigation) incurred with any such items of actual or alleged injury or damage, except when such injury or damage is caused by the sole negligence of the Grantor; provided that, to the extent this easement is construed to be subject to RCW 4.24.115, this provision shall not be construed to require Grantee to indemnify the Grantor of the Grantor's sole negligence and where such injury or damage arises from the concurrent negligence of the Parties, Grantee's indemnity shall extend only to its negligence. In consideration of the Grantor's execution of this easement, Grantee hereby waives any immunity Grantee may have under applicable workers' compensation benefits or disability laws (including but not limited to Title 51 RCW) in connection with the foregoing indemnity. Such waiver shall not prevent Grantee from asserting such immunity against any other persons or entities. THE GRANTEE AND THE GRANTOR AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION.

6. The Grantor reserves all rights of ownership in and to the Grantor's property which are not inconsistent with the Easement. The Grantor further reserves the right to use the Grantor's property for all uses not interfering with the use permitted to Grantee under this Easement.
7. The Grantee shall keep the Easement free of any liens and encumbrances arising out of Grantee's use under the Easement.
8. The Grantee shall not assign or transfer this Easement in whole or in part without the prior written consent of the Grantor.
9. The rights and obligations set forth in this Easement run with the land and are binding upon and enforceable against all successors in right, title, or interest.
10. Notice of Consent Decree.
 - a. Notice is hereby given that the Grantor's Easement Area is subject to the Harbor Island Soil & Groundwater Operable Unit Consent Decree, which was entered in the United States District Court, Western District of Washington Seattle Division, in Civil Action No. C95-1495Z ("Consent Decree"). A copy of that document has been filed at King County under King County Recording No. 9608211528.
 - b. Section X of the Consent Decree requires that the United States and its representatives, including EPA and its contractors, be provided access to Grantor's Property at all reasonable times for the purposes of conducting activities related to the Consent Decree. Grantee may not interfere with that right of access.
 - c. The Consent Decree includes conditions that apply to the Harbor Island Soil & Groundwater Operable Unit, which includes all or portions of the Easement Area. The Easement Area is subject to Harbor Island Soil & Groundwater Operable Unit Environmental Covenant, King County Recording Nos. 20170526001053 ("Environmental Covenant").
11. Any notices required or permitted under this Easement shall be personally delivered or sent by

certified mail, return receipt requested, and shall be deemed given three (3) days following the date when mailed or one (1) business day following personal delivery. All notices shall be sent to the following addresses:

To CenturyLink:

100 CenturyLink Drive
Monroe, LA 71203
Attn: Construction Services

1208 NE 64th Street
Seattle, WA 98115
Attn: Network Real Estate
Phone: (206) 733-5250

To the Port:

Manager, Maritime Properties
Port of Seattle
PO Box 1209
Seattle, WA 98111
Phone: (206) 728-3000

12. Upon its effective date, this Easement is intended to supersede the CenturyLink Easement that was recorded under King County recording number 9209212171, which shall terminate on the effective date of this Easement.

IN WITNESS WHEREOF, the Parties execute this Easement and it will be in full force and effect as of the set forth above.

Port of Seattle

By: _____

Its: _____

Date: _____

Qwest Corporation, d/b/a CenturyLink QC

By: _____

Its: _____

Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument, and acknowledged they are the _____ of the **Port of Seattle**, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20__.

NAME (Signature)

NAME (Print)

NOTARY PUBLIC in and for the State of _____

residing at _____

My appointment expires _____

((SEAL))

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that they signed this instrument, on oath stated that she was authorized to execute the instrument, and acknowledged it as the _____ of **Qwest Corporation d/b/a CenturyLink QC**, a Colorado Corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 20__.

NAME (Signature)

NAME (Print)

NOTARY PUBLIC in and for the State of

residing at

My appointment expires

((SEAL))

Exhibit A

CENTURYLINK EASEMENT

THAT PORTION OF THE NORTH HALF OF THE VACATED SOUTHWEST LANDER STREET AS VACATED BY CITY OF SEATTLE VACATION ORDINANCE NUMBER 106612, IN THE PLAT OF SEATTLE TIDE LANDS, ACCORDING TO THE OFFICIAL MAPS ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS, OLYMPIA, WASHINGTON; SITUATED IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 7, TOWNSHIP 24 NORTH, RANGE 4 EAST, W.M., KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID VACATED SOUTHWEST LANDER STREET;
THENCE SOUTH $01^{\circ}08'19''$ WEST ALONG THE EAST LINE OF SAID VACATED SOUTHWEST LANDER STREET, 24.00 FEET TO THE POINT OF BEGINNING;
THENCE NORTH $88^{\circ}51'41''$ WEST PARALLEL WITH THE NORTH MARGIN OF SAID VACATED SOUTHWEST LANDER STREET, 254.55 FEET TO THE WEST LINE OF THE EAST 254.55 FEET OF SAID VACATED SOUTHWEST LANDER STREET;
THENCE SOUTH $01^{\circ}08'19''$ WEST ALONG SAID WEST LINE, 21.00 FEET TO THE NORTH SIDELINE OF AN EASEMENT DOCUMENT RECORDED UNDER INSTRUMENT NUMBER 7708250859, RECRODS OF SAID COUNTY;
THENCE SOUTH $88^{\circ}51'41''$ EAST ALONG SAID NORTH SIDELINE, 20.00 FEET;
THENCE NORTH $01^{\circ}08'19''$ EAST PARALLEL WITH THE EAST LINE OF SAID VACATED SOUTHWEST LANDER STREET, 16.00 FEET;
THENCE SOUTH $88^{\circ}51'41''$ EAST PARALLEL WITH THE NORTH MARGIN OF SAID SOUTHWEST LANDER STREET, 234.55 FEET TO SAID EAST LINE;
THENCE NORTH $01^{\circ}08'19''$ EAST ALONG SAID EAST LINE, 5.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,593 SQUARE FEET
(0.04 ACRES, MORE OR LESS.)



