

ATTACHMENT 1

First Amendment

**AMENDMENT TO
DARK FIBER AGREEMENT DATED JUNE 26th, 2001**

This first Amendment ("Amendment") is entered into by and between Level 3 Communications, LLC ("Level 3", "Grantor") and County of Santa Barbara, California ("Grantee") and is effective upon execution by both Parties. Level 3 and Grantee may be referred to collectively as the "Parties" and individually as a "Party." Level 3 may use the d/b/a "Lumen Technology Group" filed in Sacramento County on behalf of Level 3's affiliate, which is under common control, CenturyLink Communication, LLC. Capitalized terms that are not defined in this Amendment shall have the meaning set forth in the Dark Fiber Agreement between the Parties that is described below.

WHEREAS, the Parties entered into a Dark Fiber Agreement effective June 26, 2001 (the "Agreement" or "Dark Fiber Agreement"), and the Parties desire to amend the Agreement as described herein.

NOW THEREFORE, for good and valuable consideration, the Parties amend the Agreement as follows:

1. Modification to Article 5. Term. The following is added to Section 5.01: "The Parties agree that the current Term of the Agreement will expire on December 31, 2021. The Parties agree to renew the Term of the Agreement for a new ten (10) year period commencing on January 1, 2022 and continuing thru December 31, 2031 (the "Renewal Term"). Additionally, Grantee may request to extend the Term by 2 five (5) year periods by providing written notice to Grantor not less than ninety (90) days prior to the expiration of the then current Term (each an "Optional Renewal Term"). If Grantor determines to accept Grantee's request to exercise an Optional Renewal Term, subject to the provisions of 6.01 as modified below, the parties shall negotiate a mutually agreeable fee (the "Optional Term Renewal Fee") that shall be the equivalent of the then fair market rental rate for use of the Grantee Fibers for the Optional Renewal Term and execute an amendment documenting the Optional Term Renewal Fee. If the Parties do not amend this Agreement to extend it for an Optional Renewal Term, this Agreement will expire at the end of the then current Term and all rights revert to Grantor in the Grantee Fibers. For purposes of the Agreement, the initial "Term", any "Renewal Term" or "Optional Renewal Term" will be referred to as the "Term" of the Agreement."

2. Modification to Article 6. Required Rights. Section 6.01 is deleted in its entirety and replaced with the following:

The Grantee Fibers are subject and subordinate to "Required Rights", including, but not limited to, covenants, conditions, restrictions, easements, reversionary interests, bonds, mortgages and indentures, and other matters, whether or not of record, and to the rights of tenants and licensees in possession. The Grantee Fibers and Access Points are further subject and subordinate to the prior right of the Grantor of the Required Rights to use the right of way for other business activities, including railroad operations, telecommunications uses, pipeline operations or any other purposes, and to the prior right of Grantor to use its rights granted under the Required Rights. The rights granted herein are expressly made subject and subordinate to each and every limitation, restriction or reservation affecting the Required Rights. Nothing herein shall be construed to be a representation, warranty or covenant of Grantor's right, title or interest with respect to the right of way or the Required Rights.

3. Modification to Article 8. Acceptance Testing and Completion. The following Section 8.03 is added:

8.03 For the Grantee Fiber described in Section 2.A. of Exhibit A, Grantee acknowledges and agrees that this is a renewal of previously delivered and accepted Fiber. Grantor will not provide any acceptance documentation for the Renewal Term. Customer is deemed to have accepted the Grantee Fiber described in Section 2.A of Exhibit A upon execution of this Amendment.

4. Modification of Exhibit A. The Parties acknowledge and agree that the Secondary Fiber described in Section 2.B of Exhibit A have not been purchased by Grantee. Grantee may order the Secondary Fibers via a mutually acceptable order form or by amendment to the Agreement.
5. Modification of Exhibit "B", IRU Fees. The pricing tables in the existing Exhibit "B", IRU Fee is amended by adding the following:

For the Renewal Term beginning on January 1, 2022, the Renewal IRU Fee for the Initial Fibers shall be as follows:

Segment	Renewal IRU Fee
Segment 1	\$47,500
Segment 2	\$47,500

By executing this Amendment, Grantee will be deemed to have placed an Order for the Services described under this Amendment, and Grantee will not be required to place a separate Order. Upon processing this Amendment, Grantor will bill the Renewal IRU Fee to Grantee and Grantee will pay within thirty (30) days after receipt of such invoice pursuant to Section 4.04 of the Agreement. For the avoidance of doubt, Grantee shall not be required to pay the "IRU Fee for Initial Fiber" described in Exhibit B for the Renewal Term.

6. Modification of Article 23. Notices. The "If To Grantor" notice address is deleted and replaced with the following.

Level 3 Communications, LLC
 931 14th Str., #900
 Denver, CO 80202

7. Except as modified above, all other terms and conditions of the Agreement remain in full force and effect. If there is a conflict between this Amendment and the Agreement, the terms of this Amendment shall govern. By signing below, each Party acknowledges that it has read, understood, and accepts the terms and conditions set forth in this Amendment.
8. **Non-Appropriations.** Customer intends to continue this Agreement for its entire Term and to satisfy its obligations hereunder. For each fiscal period for Customer: (a) Customer agrees to include in its budget request appropriations sufficient to cover Customer's obligations under this Agreement; (b) Customer agrees to use all reasonable and lawful means to secure these appropriations; (c) Customer agrees it will not use non-appropriations as a means of terminating this Agreement in order to acquire functionally equivalent products or services from a third party. Customer reasonably believes that sufficient funds to discharge its obligations can and will lawfully be appropriated and made available for this purpose. In the event that Customer is appropriated insufficient funds, by appropriation, appropriation limitation or grant, to continue payments under this Agreement and has no other funding source lawfully available to it for such purpose (as evidenced by notarized documents provided by Customer and agreed to by CenturyLink), Customer may terminate this Agreement without incurring any termination charges by giving CenturyLink not less than 30 days' prior written notice. Upon termination and to the extent of lawfully available funds, Customer will remit all amounts due and all costs reasonably incurred by CenturyLink through the date of termination.
9. **Counterparts.** This Amendment may be executed in one or more counterparts, all of which taken together shall constitute one instrument. Digital signatures and electronically exchanged copies of signed documents shall be sufficient to bind the parties to this Amendment.

IN WITNESS WHEREOF, the Parties have executed this Amendment through their respective and duly authorized representatives as of the dates indicated below.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

COUNTY OF SANTA BARBARA:

By: _____
Deputy Clerk

By: _____
Chair, Board of Supervisors

Date: _____

RECOMMENDED FOR APPROVAL:

Department of General Services

CONTRACTOR:

Level 3 Communications, LLC

DocuSigned by:
Janette D. Pell
By: _____
1FDA9DB673A445F...
Janette D. Pell

DocuSigned by:
Stephen Arenson
By: _____
F31DA6839335465...
Authorized Representative
Name: Stephen Arenson
Title: Manager - offer Management

APPROVED AS TO FORM:

Rachel Van Mullem
County Counsel

APPROVED AS TO ACCOUNTING FORM:

Betsy M. Schaffer, CPA
Auditor-Controller

DocuSigned by:
[Signature]
By: _____
D8A627A89DD64A5...
Deputy County Counsel

DocuSigned by:
[Signature]
By: _____
B9D7C9FE7A444AE...
Deputy

APPROVED AS TO FORM:

Risk Management

DocuSigned by:
Ray Aramatorio
By: _____
D3DB8526E16F47E...
Risk Management