

SWITCH BUSINESS SOLUTIONS, LLC

THIRD AMENDMENT TO REVOCABLE RIGHTS-OF-WAY LICENSE AGREEMENT

This Third Amendment to Revocable Rights-of-Way License Agreement (“Amendment”) is made as of May 1, 2012 (the “Effective Date”), by and between Clark County, Nevada, a political subdivision of the State of Nevada (“County”) and Switch Business Solutions, LLC, a Nevada limited liability company (“Licensee”) authorized to do business in the State of Nevada.

RECITALS

A. Whereas, Licensee and County are parties to that certain Revocable Rights-of-Way License Agreement effective as of October 21, 2008 (the “ROW Agreement”); and

B. Whereas, on January 5, 2009, Licensee and County entered into and the County approved the First Amendment to the Revocable Rights-of-Way License Agreement (the “First Amendment”), which expanded the right-of-way license service area and amended Section 2.7 of the ROW Agreement to allow Licensee to install electric power lines connecting its facilities to a nearby NV Energy substation in order to power its system; and

C. Whereas, on October 4, 2011, Licensee and County entered into and the County approved the Second Amendment to the Revocable Rights-of-Way License Agreement (the “Second Amendment”; the Second Amendment, the First Amendment and the ROW Agreement, collectively the “Amended ROW Agreement”), which expanded the right-of-way license service area; and

D. Whereas, Licensee desires to further expand its rights-of-way license service area to include additional rights-of-way by requesting an amendment to Exhibit B of the Amended ROW Agreement and certain other modifications as set forth herein.

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties hereto agree to as follows:

1. Defined Terms and Recitals. Capitalized terms not defined herein shall have the meaning given to them in the Amended ROW Agreement.
2. Section 2.1. Section 2.1 is hereby amended and restated as follows:

This Agreement shall be non-exclusive and revocable pursuant to Section 6 of this Agreement, and shall be in force and effect from the date first written above until October 21, 2018. If the Licensee notifies the county manager twenty-four months before the expiration of this Agreement that it wishes to extend the agreement, the county manager shall, within twelve months of the expiration of this Agreement, grant a one-time extension of five years under the same terms and conditions, unless the Licensee has not substantially complied with the terms and conditions of this Agreement of Clark County Code.

3. Section 2.3. Section 2.3 is hereby amended and restated as follows:

Except as otherwise provided by applicable law: (1) Licensee shall not knowingly permit use by other persons of its facilities located in County rights-of-way who are required to obtain a business license, Franchise or Rights-of-Way License Agreement from the County for such use, unless and until the other persons obtain such licenses or franchises or are customers or affiliates of Licensee; and (2) unless required by law, the Licensee shall not permit another person, other than a customer of Licensee or an affiliate of the Licensee, that is providing video service and has obtained a Certificate of Authority from the Nevada Secretary of State, to install its own facilities in, on, under, along or above the Licensee's facilities.

4. Section 2.4. Section 2.4 is hereby amended and restated as follows:

Licensee is hereby granted, during the term of this Agreement, a license to install, operate and maintain its facilities in rights-of-way in unincorporated Clark County in the area identified in the map attached hereto, labeled Exhibit B and made a part of this Agreement by reference, pursuant to Clark County Code Titles 5, 6 and 30. On the effective date of this Agreement, Licensee shall provide the County with the location of the facilities Licensee will install in County rights-of-way during the 12-month period of this Agreement, of which it is aware at the time. Without limiting the foregoing, Licensee may utilize the license for installation of facilities to provide communications infrastructure (including fiber optics) to its customers and electrical power for its colocation facilities.

5. Section 2.7. Section 2.7 is removed from the Amended Agreement and shall be of no further force or effect.

6. Section 4. Section 4 is hereby amended and restated as follows:

The Licensee shall pay to the County an annual rental fee of the greater of \$1,500 or \$1.50 for each linear foot of rights-of-way in, on, along, above or below which Licensee has installed its facilities under this Agreement. The annual rental fee shall be subject to annual adjustment based on the change in the annual average of the All Urban Consumers Price Index (CPI-U) for the previous calendar year. The adjustment of the annual rental fee shall apply to the annual rental fee that is due on or after July 1 of each year following the calendar year that determined the rate increase. If a request for expansion of facilities is approved by the County Manager pursuant to Section 2.5 of this Agreement, any fees applicable to the expansion shall be pro-rated to coincide with the current annual fee period and shall be due upon such approval. Licensee shall pay all payments and fees assessed in accordance with its County business license pursuant to Clark County Code Title 6, as amended from time to time.

7. Amendment to Section 9.2. Section 9.2 is hereby amended and restated as follows:

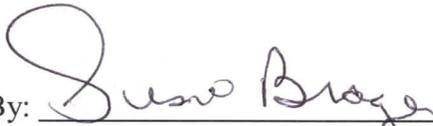
The Licensee shall be responsible for compliance with the provisions of Section 5.01.190 of the Clark County Code. The Licensee shall provide to the Director of Business License security for performance pursuant to Clark County Code Chapter 5.01, in the amount of fifty thousand dollars (\$50,000). This deposit may be in the form of cash or a letter of credit. Licensee hereby grants the County authorization to deduct assessed fines

or penalties and late charges, if any, pursuant to Section 6 of this Agreement and Clark County Code Chapter 5.01, from such security deposit.

8. Amendment to Exhibit B. Exhibit B of the Amended ROW Agreement is hereby amended to include the unincorporated areas of the urban valley portion of the County as identified in the map attached hereto.
9. Deletion of Section 3 of the Second Amendment. Section 3 of the Second Amendment is hereby deleted in its entirety.
10. Ratification. Except as modified by this Amendment, the Amended ROW Agreement is hereby ratified and remains in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the Effective Date.

Clark County Board of Commissioners

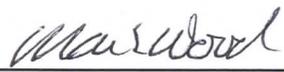
By: 
SUSAN BRAGER, Chair

ATTEST:


DIANA ALBA, Clerk

APPROVED AS TO FORM:

DISTRICT ATTORNEY



By: MARK WOOD
Deputy District Attorney

SWITCH BUSINESS SOLUTIONS, LLC


By: ROB ROY
Title: Manager

EXHIBIT B

**STREET
CENTERLINE
CITIES**

LAS VEGAS VALLEY
CLARK COUNTY, NEVADA

Geographic
Information
Systems
Management
Office



SOURCE:
STREET CENTERLINE DATABASE
DATE PLOTTED:
MARCH 27, 2012

LEGEND

- UNINCORPORATED CLARK COUNTY
- CITY OF HENDERSON
- CITY OF BOULDER CITY
- CITY OF NORTH LAS VEGAS
- CITY OF LAS VEGAS
- CITY OF SUMMERLIN
- CITY OF SOUTH LAS VEGAS
- NELLIS AIR FORCE BASE

This information is for display purposes only. No liability is assumed as to the accuracy of the data delineated herein.



SCALE:
NO SCALE

Service area includes all public rights-of-way located in unincorporated Clark County, Nevada, depicted on this map.

