



To: Mayor and Town Council
From: Mark C. Meyers, Town Manager
Date: January 8, 2026
Subject: Proposed Fiber Optic Services Agreement with SC Broadband

Background

As discussed at the December 16, 2025, Town Council meeting, SC Broadband, a provider of fiber optic internet throughout Southern Utah and Northern Arizona, has proposed to bring their services to Virgin Town in 2026 (see boundaries in attached map). Recently, SC Broadband finished a project in Springdale and is currently completing one in Rockville. The service includes up to 1 gig internet speeds. Prices start at \$65 per month for residential plans and \$95 per month for business plans. (Promotional rates for residential service include a \$10/month discount for the first 12 months.)

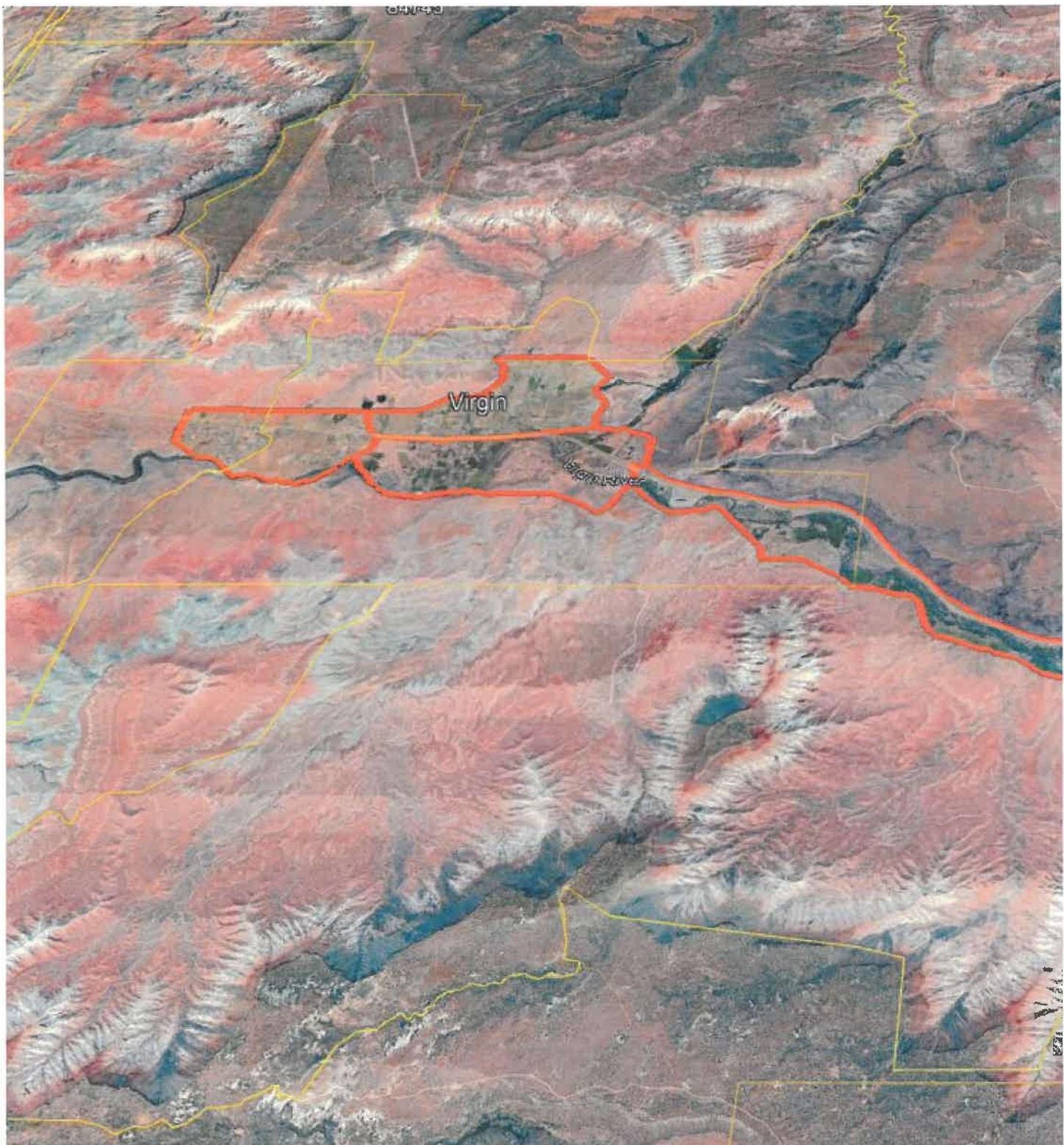
I have been working with Terrence Mitchell, Director of Business Development, on a draft franchise agreement. Mr. Mitchell and I revised the first draft which Town Attorney Heath Snow later reviewed and further revised (see attached agreement). SC Broadband has agreed to all proposed changes. In brief, it is a non-exclusive agreement for an initial period of 15 years and then year-to-year thereafter unless either party terminates it. The agreement includes collection of a 3.5% franchise fee on services in return for the use of Town rights of way. It should be noted that should the Town approve the agreement it would have to adopt an ordinance to collect the fee. Mr. Snow has provided me with a draft of such an ordinance based on one he has used for other clients.

Until this point only over-the-air internet services have been available to residents and businesses in Virgin. The addition of fiber optic technology to homes and businesses would be a significant improvement for those who rely on fast, reliable internet connectivity.

Recommendation

It is recommended that Town Council approve a franchise agreement with SC Broadband for the provision of fiber optic services. Again, the service will provide town residents and businesses with improved internet services, both in speed and reliability.

It is further recommended that the Town Council approve a related telecommunications tax ordinance. The ordinance will allow the Town to collect a franchise fee from SC Broadband for consideration of use of Town rights of way.



Terrence Mitchell
Director of Business Development
Phone 435-263-0737
856 Sage Drive • Cedar City, UT 84720
1Q 2011

FRANCHISE AGREEMENT
SOUTH CENTRAL COMMUNICATIONS, INC.

THIS FRANCHISE AGREEMENT (the "AGREEMENT") dated this _____ day of _____, 20____, by and between Virgin **Town**, a municipal corporation of the State of Utah ("Town") and South Central Communications, Inc., a Utah corporation dba SC Broadband ("Franchisee").

WHEREAS, Franchisee has requested that Town grant it the right to install, operate, and maintain a communications system within Town's public ways; and

WHEREAS, the Town, by and through the Virgin Town Council - its governing body (the "Town Council") finds it desirable for the welfare of Town residents that such a non-exclusive franchise be granted to Franchisee; and

WHEREAS, the Town Council has authority under Article I, Section 23 and Article 11, Section 9 of the Utah Constitution and consistent with Utah Code Ann. § 10-8-11, to grant franchises to private utility providers to construct, maintain and operate utility transmission facilities along and over public roads and highways and other public properties in the Town; and

WHEREAS, Town is willing to grant the rights requested subject to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, THE PARTIES MUTALLY AGREE AS FOLLOWS:

Section 1. Definitions. The following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

A. "Affiliate" means any entity which owns or controls, is owned or controlled by, or is under common ownership with, Franchisee.

B. "Town" means Virgin Town, Utah.

C. "Communications Service" means any communications services, communications capacity, or dark fiber, provided by Franchisee using its Communications System or Communication Facilities, either directly or as a carrier for its subsidiaries, affiliates, or any other person engaged in Communications Service, including but not limited to, the transmission of voice, data, or other electronic information, facsimile reproduction, burglar and fire alarm monitoring, meter reading, and home shopping, or other subsequently developed technology

that carries an electronic signal over fiber optic cable, copper cable, or wireless antennas. Communications Service also includes wireless and non-switched, dedicated, and private line, high-capacity fiber optic transmission services to firms, businesses, or institutions within the Town.

D. "Communications System" or "Communication Facilities" means Franchisee's fiber optic and/or copper cable and/or wireless system constructed and operated within Town's public ways, and includes all cables, wires, fibers, antennas, conduits, ducts, pedestals, and any associated converter, equipment, enclosures, or other facilities within Town's public ways designed and constructed for the purpose of providing Communications Service.

E. "FCC" means the Federal Communications Commission or any successor governmental entity.

F. "Franchise" means the authorization granted by the Town through this Agreement that authorizes the construction, operation and maintenance of Franchisee's Communications System and associated Communications Facilities for the purpose of offering Communications Service.

G. "Franchisee" means South Central Communications, Inc., and includes its lawful successors, transferees, assignees, or affiliates.

H. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

I. "Public Way" means the surface of, and any space above or below, any public street, highway, freeway, bridge, path, alley, court, boulevard, sidewalk, parkway, lane, drive, circle, or any other public right of way including, but not limited to, public utility easements, utility strips, or rights of way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon, now or hereafter held or maintained by the Town in the Service Area, which shall entitle the Town and the Franchisee the use thereof for the purpose of installing, operating, repairing, and maintaining the Communications System. Public way also means any easement now or hereafter held by the Town within the Service Area for the purpose of utility or public service use, or dedicated for compatible uses, and includes other easements or rights of way which, within their proper use and meaning, entitle the Town and the Franchisee the use thereof for the purposes of installing or transmitting Communications Service over wires, cables, conductors, amplifiers, appliances, attachments, and other property as may be ordinarily and necessarily pertinent to the Communications System.

J. "Service Area" means the present municipal boundaries of the Town and includes any additions thereto by annexation or other legal means.

Section 2. Authority Granted. The Town hereby grants to Franchisee, subject to the terms and conditions contained in this Agreement, the right, privilege and authority to utilize Town's Public Ways for construction and operation of its Communications System and to acquire, construct, operate, maintain, replace, use, install, remove, repair, reconstruct, inspect, sell, lease, transfer, or to otherwise utilize in any lawful manner, all necessary equipment and facilities thereto for its Communications System, and to provide Communications Service.

Section 3. Construction Permits Required.

A. Prior to site specific location and installation of any portion of its Communications System within a Public Way, Franchisee shall apply for and obtain a building and/or excavation permit pursuant to Town ordinances then existing.

B. Unless otherwise provided in said permits, Franchisee shall give the Town at least 48 hours' notice of Franchisee's intent to commence work in the Public Ways. Franchisee shall file plans or maps with Town showing the proposed location of its Communication Facilities and pay all duly established permit and inspection fees associated with the processing of the permit. No work shall commence within any Public Way without said permit except as otherwise provided in this Agreement.

Section 4. Grant Limited to Occupation. Nothing contained herein shall be construed to grant or convey any right, title, or interest in Town's Public Ways to Franchisee, nor shall anything contained herein constitute a warranty of title.

Section 5. Term of Franchise. This Franchise is granted for fifteen (15) years and will continue thereafter on a year to year basis unless either party provides written notice to the other party sixty (60) days prior to the end of the then current term of its intent to terminate or renegotiate the terms and conditions of this Franchise.

Section 6. Non-Exclusive Grant. This Franchise is non-exclusive. It does not prohibit the Town from entering into other similar agreements or granting other franchises in, under, on, across, over, through, along or below the Town's Public Ways. However, the Town shall not permit any such future franchisee to physically interfere with Franchisee's then existing Communication Facilities. This Franchise does not prohibit the Town from using any of its Public Ways or affect the Town's jurisdiction over its Public Ways or any part of them, and the Town shall retain the power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication or vacation of the same as the Town may deem fit, including the dedication, establishment, maintenance, and improvement of new Public Ways.

Section 7. "As-Built" Maps and Records. After construction of any phase or permitted segment of the Communications System is complete, Franchisee shall, at no cost, provide the Town with accurate copies of as-built plans and maps in a form prescribed by the Town.

Section 8. Work in Public Ways.

A. During periods of relocation, construction, or maintenance, surface impediments, if any, shall be placed and used in such places and positions within Public Ways and other public properties so as to interfere as little as possible with the free passage of traffic and the free use of adjoining properties. Franchisee shall, at all times, post and maintain proper barricades and comply with all applicable safety regulations.

B. Franchisee shall cooperate with the Town and all other Persons with authority from the Town to occupy and use the Town's Public Ways in coordinating construction activities and joint trenching projects. By June 1 of each calendar year, or such other date as the Town and Franchisee may agree upon from year to year, Franchisee shall provide the Town with a schedule of its proposed construction activities in, around, or that may affect the Town's Public Ways. Franchisee shall also meet with the Town and other grantees, franchisees, permittees, and other users of the Town's Public Ways as determined by the Town to schedule and coordinate construction activities.

C. If either the Town or Franchisee shall, at any time after the installation of Communication Facilities, plan to make excavations in the Service Area and as described in this section, the party planning such excavation shall afford the other party, upon receipt of written request to do so, an opportunity to share such excavation provided that: (1) such joint use shall not unreasonably delay the work of the party causing the excavation to be made or unreasonably increase its costs; (2) such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties; and {3} either party may deny such request for safety reasons or if their intended uses are incompatible.

D. Notwithstanding the general provisions of Section 2, above, Franchisee expressly agrees:

(1) to install and maintain all of its underground facilities in accordance with Town's Standards and Specifications for Public Improvements regarding the undergrounding of electrical utility lines, in effect at the time this Agreement is entered into and as subsequently amended during the term of this Agreement.

(2) to install and maintain all of its aerial facilities in accordance with the National Electric Code {NEC}, aka NFPA 70, regarding the installation of aerial utility lines and pole attachments in effect at the time this Agreement is entered into and as subsequently amended during the term of this Agreement. Nothing herein shall require Franchisee to convert existing overhead facilities to underground facilities until and unless other similarly situated providers in the same location are required to do so.

Section 9. Restoration after Construction. Franchisee shall, after the installation, construction, relocation, maintenance, removal, or repair of any phase or component of its Communication System within the Public Ways, restore the affected Public Ways and any property disturbed by the work to at least the same condition the Public Ways or property was in immediately prior to any such installation, construction, relocation, maintenance or repair, reasonable wear and tear excepted. Franchisee shall promptly complete the restoration of any damage or debris caused by such work at its sole cost and expense according to the time and terms specified in the construction permits referenced in Section 3, above. If no restoration deadline is cited in said construction permits, then within thirty (30) days after completion of the work. If the work involves the cutting or excavation of any streets or sidewalks, Franchisee shall be required to post a restoration bond in the form and amount as required by Section 2.18 of Appendix B (Public Works Standards) to Title 16 of the Virgin Town Code (as amended).

Section 10. Emergency Work Permit Waiver. In the event of an emergency in which any of Franchisee's Communication Facilities located in, above, or under any Public Way break or are damaged, or if Franchisee's construction area is otherwise in such a condition as to immediately endanger the property, life, health, or safety of any individual, Franchisee shall immediately take proper emergency measures to repair its Communication Facilities, to cure or remedy the dangerous conditions for the protection of property, life, health, or safety of individuals without first applying for and obtaining a permit. Franchisee shall notify the Town immediately upon learning of the emergency and shall apply for all required permits not later than the second succeeding day during which Town is open for business.

Section 11. Relocation.

A. During the period of this Agreement, if Town shall lawfully elect to alter or change any Public Way requiring the relocation of Communication Facilities, then Franchisee, upon reasonable notice by the Town, shall remove, relay, and relocate the same at its own expense. However, Franchisee may obtain public funds from sources other than the Town, as may be available, to assist with its relocation costs.

B. If, for aesthetic purposes, the Town requests relocation of any phase or segment of the Communication System that were originally approved by the Town through the permitting process, the Town shall pay all costs associated with relocation.

C. Franchisee shall, upon the request of any person holding a permit to move and/or relocate a building issued by the Town, temporarily raise or lower any portion of its Communication System to permit the moving of the building, provided: (a) the expense of such temporary removal shall be paid by the person(s) requesting the same; (b) Franchisee shall have the authority to require payment in advance; and (c) Franchisee must be given not less than five (5) business days' advance notice.

Section 12. Trimming. Franchisee shall have the authority to trim trees upon and overhanging all streets, alleys, public utility easements, sidewalks, and public places to prevent the branches of such trees from coming into contact with Communication Facilities. Except when an emergency dictates such work, Franchisee shall provide notice of at least 30 days to Town and to any property owner before commencing such work. Any trimming performed by Franchisee shall be in compliance with applicable **ANSI A300** standards for the management of trees and other woody plants.

Section 13. Dangerous Conditions. Whenever construction, installation or excavation of Communication Facilities has caused or contributed to a condition that appears to substantially impair the lateral support of any adjoining Public Way, street, public place, utility, or property, the Town may require Franchisee to take reasonable action to protect the Public Way, street, public place, utility, or property. Such action may include compliance within a timeframe reasonably prescribed by Town or the use/installation of temporary forms of support or traffic control. If Franchisee fails or refuses to promptly take the action(s) required by the Town or fails to fully comply with such requirements, or if emergency conditions exist which require immediate action, the Town may enter upon the property and take such actions as are reasonably necessary to protect the Public Way, street, public place, utility, or property or take actions regarded as reasonably necessary safety precautions, and Franchisee shall be liable to the Town for the reasonable costs thereof.

Section 14. Non-Liability of Town for Acts of Franchisee. The Town shall not at any time become liable or responsible to any person for any property damage, bodily injury (including loss of life), or monetary loss caused by reason of Franchisee's activities under this Agreement, and Franchisee shall indemnify, defend, and hold the Town harmless against all such liabilities, loss, cost, damage, and expense.

Section 15. Insurance. Franchisee shall procure and maintain insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the exercise of the rights, privileges, and authority granted hereunder to Franchisee, its agents, representatives, or employees. Franchisee shall provide to the Town for its inspection an insurance certificate naming the Town as an additional insured as its respective interests may appear prior to the commencement of any work or installation of any component or permitted segment of the Communication System. Such insurance certificate shall evidence: (a) comprehensive general liability insurance with limits inclusive of umbrella or excess liability coverage of not less than \$2,000,000 for bodily injury or death to each person; (b) comprehensive general liability insurance with limits inclusive of umbrella or excess liability coverage of not less than \$3,000,000 for property damages resulting for each incident; (c) automobile liability insurance for owned, non-owned, and hired vehicles with a limit inclusive of umbrella or excess liability coverage of not less than \$300,000 for each person and \$500,000 for each incident; and workers' compensation coverage with limits prescribed by statute.

The insurance policies required by this section shall be maintained by Franchisee throughout the term of this Agreement and during such other periods as Franchisee is operating without a franchise or is engaged in the removal of its Communications System. Payment of deductibles and self-insured retentions shall be the sole responsibility of Franchisee. The insurance certificate required by this section shall contain a clause stating that the coverage shall apply separately to each insured against whom a claim is made or against whom a suit is brought. Franchisee's insurance shall be primary insurance with respect to the Town. Any insurance maintained by the Town, its officers, officials, employees, consultants, agents, and volunteers shall be in addition to Franchisee's insurance and shall not contribute with it.

Section 16. Abandonment and Removal of Communication Facilities. Upon the expiration or termination of this Agreement, Franchisee shall remove all its Communication Facilities from Town's Public Ways within ninety (90) days. In the alternative and upon such terms as the Town Board deems appropriate, Franchisee may abandon some of its Communication Facilities in place.

Section 17. Franchise Fees. Franchisee shall pay to the Town a municipal telecommunications license tax at the highest rate prescribed by the Utah Municipal Telecommunications License Tax Act, Title 10, Chapter 1, Part 4, Utah Code Annotated (the "MTLTA"). Said amount of the tax shall be calculated by taking the product of the gross receipts from telecommunications services (as defined by the MTLTA) rendered in the Service Area for the preceding calendar year multiplied by the tax rate (expressed as a percentage), less any business license fee or business license tax enacted by the Town. All payments shall be made to:

Utah State Tax Commission
210 North 1950 West
Salt Lake Town, UT 84134

Section 18. Modification. This Agreement may only be modified by written agreement signed by both parties.

Section 19. Forfeiture and Revocation of Franchise.

A. This franchise may be terminated by the Town for Franchisee's failure to comply with this Agreement or applicable laws.

B. If the Town has reason to believe that Franchisee is in violation of this Agreement or applicable laws:

(1) The Town shall deliver to Franchisee written notice of violation detailing the violation, the steps required to cure the violation, and the time within which the violation must be cured.

(2) Within fifteen (15) days, Franchisee shall deliver a written response to the Town demonstrating that no violation occurred or that the violation has been corrected or deliver a proposal to correct the violation problem within a period of time agreeable to the Town. Franchisee may later request an extension of the time to cure a violation if construction is suspended or delayed by the Town, or where unusual weather, natural consequences, extraordinary acts of third parties, or other circumstances which are reasonably beyond the control of Franchisee delay progress, provided that Franchisee has not, through its own actions or inactions, contributed to the delay.

(3) If Franchisee's response is not satisfactory to the Town, the Town may declare Franchisee to be in default via written notice to Franchisee.

(4) Within fifteen (15) days after such default notice is given, Franchisee may deliver to the Town Recorder a request for a hearing before the Town Council. If no such request is received, the Town Council may declare the franchise and this Agreement terminated for cause.

(5) If Franchisee files a timely written request for hearing, the hearing shall be held within fifteen (15) days of the Town's receipt of said request. The hearing shall be open to the public. Franchisee and other interested parties may offer written and/or oral evidence explaining or mitigating the alleged violation. Within ten (10) days after the conclusion of the hearing, the Town Council shall, on the basis of the record, decide as to whether there is cause for termination and whether the franchise will be terminated. Said decision shall be in writing and provided to the Franchisee pursuant to the requirements of Section 25, below. The Town Council may, in its sole discretion, grant additional time to cure the violation. If the violation has not been cured prior to the expiration of any such additional time, or if the Town Council does not grant additional time, the Town Council shall declare, in writing, that the franchise is terminated and the effective date of termination.

(6) Within fifteen (15) days of the Town Council's written determination, Franchisee may file a petition for judicial review in the 5th District Court in and for Washington County, State of Utah. Termination shall be stayed pending final resolution of such judicial review.

C. Franchisee shall not be deemed to be in default, failure, or violation of this Franchise where performance was rendered impossible due to an act of God, natural disaster, fire or other casualty, theft, pandemic, war, or other events beyond the Franchisee's control.

Section 20. Town Ordinances and Regulations. Nothing in this Agreement restricts the Town's authority to adopt and enforce ordinances regulating the performance of this Agreement. The Town shall continue to have the authority to control the locations, elevation, manner or construction and maintenance of Communications Facilities, and Franchisee shall promptly

comply with all such regulations unless compliance would cause Franchisee to violate other legal requirements.

Section 21. Survival. The provisions, conditions and requirements of this Agreement are in addition to all other legal obligations and liabilities. The following Sections survive the expiration or termination of this Agreement, and any renewals or extensions, and remain effective until such time as Franchisee removes its Communication Facilities from the Public Ways, transfers ownership of its Communication Facilities to a third party, or abandons its Communications Facilities as provided in this Agreement: Section 8 (Work in Public Ways), Section 9 (Restoration after Construction), Section 13 (Dangerous Conditions), Section 14 (Non-Liability of Town for Acts of Franchisee), Section 15 (Insurance), and Section 16 (Abandonment and Removal of Communication Facilities).

Section 22. Severability. If any provision of this Agreement is 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 provision.

Section 23. Assignments and Subleases. This Agreement is binding upon Franchisee's heirs, successors, executors, administrators, legal representatives, sublessees, and assigns. This Agreement may not be assigned or transferred without the Town's prior written consent, except that it may be assigned in whole or in part to a parent, subsidiary, or affiliated corporation or as part of any corporate financing, reorganization, or refinancing.

Franchisee may, without the Town's consent, but with a notice of at least 30 days: (1) lease its Communication Facilities or any portion thereof to another; (2) grant an indefeasible right of user interest in its Communication Facilities or any portion thereof to another; or (3) offer to provide capacity or band width in its Communication Facilities to another, provided that Franchisee at all times retains exclusive control over such Communication Facilities and remains responsible for locating, servicing, repairing, relocating, or removing its Communication Facilities pursuant to this Agreement.

Section 24. Third Party Beneficiaries. The benefits and protection provided by this Agreement shall inure solely to the benefit of the Town and Franchisee. This Agreement shall not be deemed to create any right in any person who is not a party and shall not be construed in any respect to be a contract in whole or in part for the benefit of any third party (other than the permitted successors and assigns of a party hereto).

Section 25. Notice. Any notice or information required to be given to the parties under this Agreement shall be sent via email with a hard copy delivered via U.S. mail, or via overnight delivery, to the following addresses unless otherwise specified:

Virgin Town
Attention: Town Clerk/Recorder

PO Box 790008
114 Mill Street
Virgin, Utah 84779
clerk@virgin.utah.gov

and

South Central Communications, Inc.
Attention: Terrence Mitchell
856 Sage Drive, Cedar City, Utah 84720
terrencem@scbroadband.com

Notice shall be deemed given upon acknowledged receipt of email, or three days after deposit in the U.S. mail in the case of first-class mail, or upon delivery in the case of overnight delivery.

Section 26. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties.

Section 27. Costs of Default. If any legal action, other than the judicial review of a termination determination, is instituted in connection with any controversy arising under this Agreement, the prevailing party shall be entitled to recover its costs and expenses including reasonable attorneys' fees.

Section 28. Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. Venue and jurisdiction over any dispute related to this franchise shall be in the Fifth Judicial District Court for Washington County, or with respect to any federal question, in the United States District Court for the District of Utah.

Section 29. Force Majeure. Neither party to this Agreement shall be held responsible for delay or default caused by fire, riot, acts of God, war, or pandemic beyond that party's reasonable control.

(Signatures to Follow)

ENTERED INTO AND EFFECTIVE the date first set forth above.

VIRGIN TOWN
a Utah municipal corporation

SOUTH CENTRAL COMMUNICATIONS, INC.
a Utah corporation

Name: JEAN KRAUSE
Title: MAYOR

Name: MICHAEL EAST
Title: CHIEF EXECUTIVE OFFICER

APPROVED AS TO FORM:

Name: HEATH H. SNOW
Title: TOWN ATTORNEY

ATTEST:

Name: KRYSTAL PERCIVAL
Title: TOWN CLERK/RECORDER

