

City Council Meeting

February 3, 2026
6:00 PM



<http://www.bonneylake.gov/>

AGENDA

Location: Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington.

The public is invited to attend Council Meetings and Workshops. Options for attending are provided below.

In-Person: Bonney Lake Justice & Municipal Center at 9002 Main Street East in Bonney Lake

By phone: 323-792-6234 (Meeting ID: 678 478 69#)

By internet: Chrome- [TEAMS Meeting Link](#) (Meeting ID: 265 362 442 662 58)

(All public online cameras and microphones will be disabled except during audience comments for anyone who clicks the raise hand icon or had let the Clerks know your phone number in advance. Only staff and presenters will be visible and unmuted during the entire meeting.)

The City Council may add and take action on other items not listed on this agenda.

I. Call to Order

A. Pledge of Allegiance

B. Roll Call

Mayor Terry Carter, Deputy Mayor Dan Swatman, Councilmember Angela Baldwin, Councilmember Aaron Davis, Councilmember Gwendolyn Fullerton, Councilmember Kerri Hubler, Councilmember J. Kelly McClimans, and Councilmember Brittany Rock.

C. Agenda Modifications

II. Council Committee Reports

III. Consent Agenda

(The items listed below may be acted upon by a single motion and second of the City Council. By simple request to the Chair, any Councilmember may remove items from the Consent Agenda for separate consideration after the adoption of the remainder of the Consent Agenda items.)

- A. **Approval of Minutes:** November 25, 2025, City Council Meeting, December 2, 2025, City Council Workshop, December 9, 2025, City Council Meeting, December 16, 2025, City Council Workshop, and January 6, 2026, City Council Workshop.
- B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers:** None.
- C. **Approval of Payroll:** January 1–15, 2026 For Checks #35347-35388 Including Direct Deposits And Electronic Transfers Totaling \$959,740.46. **Voids:** None.
- D. **AB26-19 - An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Granting A Non-Exclusive Telecommunications Franchise In, Across, Over, Along, Under, Through And Below The Public Rights-Of-Way Of The City Of Bonney Lake To Ezee**

Fiber Texas, LLC, Providing For Severability And Corrections; Requiring Acceptance By The Franchisee Within 30 Days; And Establishing An Effective Date.

- E. **AB26-15** - An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Granting A Non-Exclusive Telecommunications Franchise In, Across, Over, Along, Under, Through And Below The Public Rights-Of-Way Of The City Of Bonney Lake To Forged Fiber 37, LLC, A Delaware Limited Liability Company, And Wholly Owned Subsidiary Of AT&T, Inc.; Providing For Severability And Corrections; Requiring Acceptance By The Franchisee Within 30 Days; And Establishing An Effective Date.

IV. Full Council Issues

V. Audience Comments

Limited to 5 minutes for each speaker.

VI. Council Open Discussion

VII. Workshop Discussion Items

- A. **Review of Council Minutes:** January 13, 2026, City Council Meeting And January 20, 2026, City Council Meeting.

VIII. Executive/Closed Session

Pursuant to RCW 42.30.110 and/or RCW 42.30.140, the City Council may hold an executive or closed session. The topic(s) and duration will be announced prior to the session.

IX. Adjournment

Anything submitted at the Meeting will be added to the end of the packet the next day.

The City of Bonney Lake does not discriminate on the basis of disability, race, color, or national origin in its programs, services, or activities. If you need language assistance, translation, or an auxiliary aid, service, or policy modification to fully participate, please [email the City Clerk's Office](#) or call at 253-862-8062 (TTY 711) at least 5 business days before the event; later requests will be honored when feasible.

CITY COUNCIL MEETING

November 25, 2025
6:00 P.M.
DRAFT MINUTES



www.ci.bonney-lake.wa.us

Location: The physical location of the Council Meeting was at the Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington. The public was also given the option to call in or attend virtually the Council Meeting.

Audio starts at:
06:00

- I. CALL TO ORDER** – Mayor Terry Carter, called the meeting to order at 6:00 p.m.
- A. Pledge of Allegiance: Mayor Carter led the audience in the Pledge of Allegiance.
- B. **Roll Call:** Administrative Specialist II Debbie McDonald called the roll. In addition to Mayor Carter, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Angela Baldwin, Councilmember Aaron Davis, Councilmember Gwendolyn Fullerton, Councilmember Kerri Hubler, and Councilmember Brittany Rock. Councilmember in virtual attendance was Councilmember J. Kelly McClimans.

Staff members in attendance at the physical location were City Administrator John P. Vodopich, Police Chief Mark Berry, Chief Finance Officer Cherie Reiersen, Municipal Court Judge Joanna Daniels, Administrative Services Director Chuck McEwen, City Engineer Ken Gill, Judicial Branch Administrator Geri Resch, Assistant City Engineer Andrew Fonda, Assistant to the City Administrator Leslie Harris, Judicial Specialist III Terri Terry, and Administrative Specialist II Debbie McDonald.

Staff members in virtual attendance Community Court Case Manager Karla Lewis.

Audio starts at:
06:02

- C. Agenda Modifications:
1. Mayor Carter announced to the Council AB25-81-Resolution R25-81 is moved to full agenda items and AB25-88-Resolution 25-88 has been pulled from the agenda.

Audio starts at:
06:03

- D. Announcements, Appointments and Presentations:
1. **Presentation:** State of the Court.

Judge Joanna Daniels presented her power point presentation on the State of the Courts. She went over how the courts work, the accomplishments for the year, needs and grants.

Councilmembers had no further questions.

Audio starts at:
06:31

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

- A. Public Hearings: None.
- B. Citizen Comments: None.
- C. Correspondence:

The City Clerk’s Office received an email on November 18th, that was shared prior to the meeting with the Mayor and Council from James Houghton regarding frequent power outages.

Audio starts at:
06:32

III. COUNCIL COMMITTEE REPORTS:

- A. Finance Committee: Deputy Mayor Swatman reported the Finance Committee met in person and virtually today at 5:00 p.m. The Committee went through personnel updates, procedural things, B and O Tax, budget being tight for next year.
- B. Community Development Committee: Councilmember Fullerton reported the Community Development Committee met in person and virtually on November 18, 2025, The Committee discussed and forwarded AB25-81 Source Control Inspections and AB21-89 Adopting Safety Action Plan on tonight’s Consent Agenda.
- C. Public Safety Committee: Councilmember Baldwin reported the Public Safety Committee did not meet and is expected to have their next meeting virtually at 3:45 p.m. on December 9, 2025. Public is welcomed to attend.
- D. Other Reports:

Regional & Community Activities: Councilmember Fullerton reported on her attendance at the Community Families First (CFF) meeting. The Big Give was last weekend with Councilmembers helping deliver Thanksgiving meals. Community Toy donation boxes are set out. In need of 500 toys for community children.

Councilmember Fullerton announced the following upcoming even:

- Mayor’s Food Drive Dec 1-19th
- Sumner Bridge Lighting Nov, 29th, 12 PM to 7 PM
- Sumner Santa Parade Dec. 6th, 3:30 PM.
- Bonney Lake Tree Lighting Dec 6th, 6 PM.
- Sumner Career Day Dec. 8th Contact Melissa Nelson with the School District if you would like to speak.

- Building Beyond the Walls, sign up for construction skills training 8:39-4:29 Jan. 24 and 31, Feb. 7, 21, and 27, Mar, 7 and 14, in Buckley.

Pierce County Regional Council (PCRC): Councilmember Fullerton also attended PCRC meeting, noting updates to the Legislative agenda. Had a presentation from Continuum of Care (COC) on how to prevent homelessness. Also had a presentation for the Pierce County Library system. Council will need to vote the City’s new delegates before the next PCRC meeting. At the January meeting will be the vote for the new Chair, Councilmember Green from Buckley was nominated.

Alliance for Climate Change: Councilmember Fullerton and Councilmember Hubler attended the zoom meeting for Alliance for Climate Change on November 14. The presentation was a Wildfires and Smoke workshop.

Audio starts at: 06:45

IV. CONSENT AGENDA:

- A. **Approval of Corrected Minutes:** October 21, 2025, City Council Workshop, October 28, 2025, City Council Meeting, And November 4, 2025, City Council Workshop.
- B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers:** Accounts Payable Check/Voucher Wire Transfer #2025102701 For City Purchasing Cards In The Amount Of \$63,485.60. Accounts Payable Check/Vouchers #100334 To #100400, And Wire Transfers #20251030, #49259519, #2025103001, #2025103002 In The Amount Of \$1,649,020.13. Accounts Payable Check/Vouchers #100401 To #100429 In The Amount Of \$5,998.33, Accounts Payable Check/Vouchers #100430 To #100493, And Wire Transfers #20251021, #20251103, #20251106, #20251113, And #2025110301 In The Amount Of \$840,431.75. Accounts Payable Check/Vouchers #100494 To #100503 In The Amount Of \$1,772.49. Accounts Payable Check/Vouchers #100504 To #100505 In The Amount Of \$8,469.34. **Voids:** 95154 – Replaced With Check #100247, 96687 - Replaced With Check #100268, 96709 - Replaced With Check #100262, 96798 - Replaced With Check # 100287 95096, 95241, 95250, 95286, 95324, 95336, 95354, 95357, 95404, 95512, 95519, 95520, 95522, 95650, 95657, 96006, 96008, 96011, 96029, 96056, 96133, 96148, 96256, 96260, 96261, 96264, 96269, 96277, 96447, 96451, 96452, 96597, 96664, 96684, 96667, 96691, 96696, 96697, 96698, 96706, 96710, 96713, 96836, 96860, 96863, 96864, 96953, 97167, 97172, 97175, 97180, 97183, 97191, And #97193 All Unclaimed Property Remitted To DOR Wire # 2025103002.
- C. **Approval of Payroll:** Oct 16-31, 2025, For Checks #35295– 35304 Including Direct Deposits And Electronic Transfers Totaling \$936,759.80. **Void:** None.
- D. Moved to Full Council Issues Item B.
- E. Pulled from agenda for a future meeting.

F. **AB25-89– Resolution R25-89** – Resolution Of City Council Of The City Of Bonney Lake, Pierce County, Washington, Adopting A Safety Action Plan.

G. **AB25-86 – Motion M25-86** – A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign An Interagency Agreement With The Chamber Collective.

Councilmember Baldwin moved to approve the Consent Agenda. Deputy Mayor Swatman seconded the motion.

Consent Agenda approved 7 – 0.

Audio starts at:
06:50

V. FULL COUNCIL ISSUES:

A. **AB25-90 – Resolution R25-90** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Accepting The Bid For The Sale Of Tax Parcels 0520261042 And 0520261041 And Authorizing The Mayor To Take Any And All Appropriate Acts To Sell The Property.

Deputy Mayor Swatman moved to approve AB25-90 – Resolution R25-90. Councilmember Baldwin seconded the motion.

Resolution R25-90 approved 7 – 0.

B. Moved from Consent Agenda Item D. **AB25-81 – Resolution R25-81** – A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Interlocal Agreement with The Tacoma Piere County Health Department To Perform Source Control Inspections In Bonney Lake.

Deputy Mayor Swatman moved to table AB25-81 – Resolution R25-81 Source Control Inspections. Councilmember Baldwin seconded the motion.

Motion to Table Resolution R25-81 approved 7 – 0.

Audio starts at:
06:53

VI. EXECUTIVE SESSION: None.

Audio starts at:
06:53

VII. ADJOURNMENT:

At 6:53 p.m. the Meeting was adjourned by Mayor Carter with the common consent of the City Council.

Sadie A. Schaneman, MMC, City Clerk

Terry Carter, Mayor

Items presented to Council at the November 25, 2025, Meeting for the record: None.

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are on file with the City Clerk. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

CITY COUNCIL WORKSHOP

December 2, 2025
6:00 P.M.
DRAFT MINUTES



www.ci.bonney-lake.wa.us

Location: The physical location of the Council Meeting was at the Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington. The public was also given the option to call in or attend virtually the Council Meeting

Audio starts at: 06:00 **I. CALL TO ORDER** – Mayor Terry Carter, called the workshop to order at 6:00 p.m.

A. Pledge of Allegiance

Audio starts at: 06:01 **II. ROLL CALL:** City Clerk Sadie Schaneman called the roll. In addition to Mayor Terry Carter, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Angela Baldwin, Councilmember Aaron Davis, Councilmember Gwendolyn Fullerton, Councilmember Kerri Hubler, and Councilmember Brittany Rock. Councilmember J. Kelly McClimans was in virtual attendance.

Staff members in attendance at the physical location were, Police Chief Mark Berry, Administrative Services Director Chuck McEwen, Public Services Director Jason Sullivan, Development Services Manager Lauren Balisky, City Clerk Sadie Schaneman and Administrative Specialist II Debbie McDonald.

Audio starts at: 06:01 **B. Agenda Modifications:**

Deputy Mayor Swatman moved to remove AB25-81-Resolution R25-81 from the agenda and have it placed on the January 13, 2026, meeting agenda. Councilmember Baldwin seconded the motion.

Consent Agenda approved 7 – 0.

III. AGENDA ITEMS:

Audio starts at: 6:02 **A. Presentation**

1. Oath of Office: Brittany Rock

Mayor Carter administered the Oath of Office to Councilmember Brittany Rock.

Audio starts at: 6:03 **B. Council Open Discussion:**

Deputy Mayor Dan Swatman

Budget 2027-2028: Deputy Mayor Swatman wanted to remind Council the budget is tight for 2027-2028. Encouraged them to keep looking for ways to increase revenue and save money.

Councilmember Fullerton

Budget 2027-2028: Councilmember Fullerton just wanted to state that the budget is tight because of tax revenue being down and not due to frivolous spending.

Mayor Carter

Council Retreat 2026: Mayor Carter wants to get a date set for the Council Retreat.

Council came to a consensus to hold the Council Retreat on February 24th at 4 P.M. in place of the Council Meeting.

Audio starts at:
6:11

C. **Review of Minutes:** - Nov. 18, 2025, City Council Workshop.

The draft minutes were forwarded with no corrections to the December 9, 2025, meeting for approval.

Audio starts at:
6:12

D. **Discussion: AB25-79 – Ordinance D25-7980** - An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Regarding The 2024 Comprehensive Plan Periodic Update; Amending The Future Land Use Designation For Real Property Commonly Known As Parcel Numbers 2925000210 And 2925000220; Adopting Envision Bonney Lake As The Comprehensive Plan For The City Of Bonney Lake; Providing For Severability And Corrections; And Establishing An Effective Date.

Public Service Director stated all the elements have come before Council. All changes requested by Council have been made.

Council discussed and shared their concerns, including:

- Amending Ordinance.
- Council changes.
- Compliance.

This will be on full council agenda next week at the Council meeting on December 9, 2025.

Audio starts at:
6:47

E. **Discussion: AB25-80 – Ordinance D25-80** - An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Regarding Implementing Actions Associated With The 2024 Comprehensive Plan Periodic Update; Amending The Official Zoning District For Real Property Commonly Known As Parcel Numbers 2925000210 And 2925000220; Amending The Official Zoning Map; Amending The Bonney Lake Municipal Code For Consistency With The Comprehensive Plan And State Law; Providing For Severability And Corrections; And Establishing An Effective Date.

Development Services Manager Balisky discussed the changes and how this would allow the Stamps' resident to rezone their property.

Council discussed and shared their concerns, including:

- Rezones need Council approval.
- Application approval process.
- City's Fire Official.
- Hearing Examiner.

This will be on full council agenda next week at the Council meeting on December 9, 2025.

Audio starts at:
7:16

F. ~~**Discussion: AB25-81—Resolution R25-81—A Resolution Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing An Interlocal Agreement With The Tacoma Pierce County Health Department To Perform Source Control Inspections In Bonney Lake.**~~ Tabled until January 13, 2026.

Audio starts at:
7:17

IV. EXECUTIVE/CLOSED SESSION: None.

Audio starts at:
7:17

V. ADJOURNMENT:

At 7:17 p.m. the Meeting was adjourned by Mayor Carter with the common consent of the City Council.

Sadie A. Schaneman, MMC, City Clerk

Terry Carter, Mayor

Items presented to Council at the December 2, 2025, Workshop: None

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are on file with the City Clerk. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

CITY COUNCIL MEETING

December 09, 2025
6:00 P.M.
DRAFT MINUTES



www.ci.bonney-lake.wa.us

Location: The physical location of the Council Meeting was at the Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington. The public was also given the option to call in or attend virtually the Council Meeting.

Audio starts at:
06:00:00

I. CALL TO ORDER – Mayor Terry Carter, called the meeting to order at 6:00 p.m.

- A. Pledge of Allegiance: Mayor Carter led the audience in the Pledge of Allegiance.
- B. Roll Call: City Clerk Sadie Schaneman called the roll. In addition to Mayor Carter, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Angela Baldwin, Councilmember Aaron Davis, Councilmember Gwendolyn Fullerton, Councilmember Kerri Hubler, Councilmember J. Kelly McClimans and Councilmember Brittany Rock.

Staff members in attendance at the physical location were City Administrator John Vodopich, Police Chief Mark Berry, Chief Financial Officer Cherie Reiersen, Administrative Services Director Chuck McEwen, Public Services Director Jason Sullivan, Development Services Manager Lauren Balisky, City Clerk Sadie Schaneman, Records and Disclosure Coordinator Kandice Besaw and City Attorney Jennifer Robertson

Staff members in virtual attendance were Assistant to City Administrator Leslie Harris and PC Network Specialist Matt Creley.

Audio starts at:
06:01:18

- C. Agenda Modifications: Mayor Carter informed Council that he received a request to table Item C under Full Council Issues to a future Council Meeting. He asked for a motion.

Deputy Mayor Swatman moved to table Full Council item AB25-91 – Motion M25-91. Councilmember Baldwin seconded the motion.

Motion to table AB25-91 – M25-91 approved 7 – 0.

- D. Announcements, Appointments and Presentations: None.

II. PUBLIC HEARINGS, CITIZEN COMMENTS & CORRESPONDENCE:

- A. Public Hearings: None.

Audio starts at:
06:01:24

- B. Citizen Comments:

Community Garden: The following individuals spoke in favor of the Garden's continuation and discussed its value to the community: Terry Reid, Laura Sarver, Lena Ramberg, Chris Long and Henry Lee.

The speakers collectively emphasized the Garden's historical and present-day significance, expressing a strong desire to find a path to move forward. Specific themes highlighted included the joy and engagement the Garden brings to residents, the nutritional value and nourishment it provides, and its importance as a community staple.

Following the public comments Public Services Director Sullivan provided a statement to the Council and the public confirming that the Community Garden is not slated for removal and will, in fact, continue operations. He further indicated that the Department is actively reviewing the necessary legalities and procedural requirements before the Council can take any formal steps to ensure its future.

Dan Decker: Expressed his concerns regarding the conduct of Councilmembers and first amendment rights, referencing several past actions to highlight his dissatisfaction.

- C. Correspondence: None.

Audio starts at: **III.**
06:30:42

COUNCIL COMMITTEE REPORTS:

- A. Finance Committee: Deputy Mayor Swatman reported the Finance Committee met in person and virtually today at 5:00 p.m. The Committee went through personnel updates, reports and approved their minutes.
- B. Community Development Committee: Councilmember Fullerton reported the Community Development Committee did not meet and is expected to have their next meeting in person and virtually at 5:00 p.m. on January 6, 2026.
- C. Public Safety Committee: Councilmember Baldwin reported the Public Safety Committee did not meet and is expected to have their next meeting virtually at 3:45 p.m. on January 13, 2026.
- D. Other Reports: Councilmember Fullerton reported that she was present at the Communities for Families (CFF) meeting. They discussed the Homeless Point in Time Count event and Building Beyond the Walls Training.

Audio starts at: **IV.**
06:36:00

CONSENT AGENDA:

- A. **Approval of Corrected Minutes**: September 18, 2025, City Council Workshop.
- B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers**: Accounts Payable Check/Voucher Wire Transfer #2025111301 For City Purchasing Cards In The Amount Of \$36,807.86 Accounts Payable Check/Vouchers #100506 To #100565, And Wire Transfers

#20251126, #49498879, And #2025112601 in The Amount Of \$294,116.87 Accounts Payable Check/Vouchers #100566 To #100594 In The Amount Of \$128,639.07 **VOIDS:** 88656 – Replaced With Ck#100528 Accounts Payable.

- C. **Approval of Payroll:** Nov 1-15, 2025, For Checks #35305– 35310 Including Direct Deposits And Electronic Transfers Totaling \$824,166.89. Nov 16-31, 2025, For Checks #35311– 35320 Including Direct Deposits And Electronic Transfers Totaling \$927,434.45.

Councilmember Fullerton moved to approve the Consent Agenda. Councilmember Baldwin seconded the motion.

Consent Agenda approved 7 – 0.

V. FULL COUNCIL ISSUES:

- A. **AB25-79 – Ordinance D25-79** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Regarding The 2024 Comprehensive Plan Periodic Update; Amending The Future Land Use Designation For Real Property Commonly Known As Parcel Numbers 2925000210 And 2925000220; Adopting Envision Bonney Lake As The Comprehensive Plan For The City Of Bonney Lake; Providing For Severability And Corrections; And Establishing An Effective Date.

Councilmember Fullerton moved to approve AB25-79 – Ordinance D25-79. Councilmember Baldwin seconded the motion.

Public Services Director Jason offered a seven-year retrospective, extending recognition to all participating staff members.

Councilmember McClimans addressed the ordinance, specifically detailing his views and the influence of both the Council and the state in generating these decisions.

**Ordinance D25-79 approved 6 – 0.
Councilmember McClimans voted no.**

- B. **AB80 – Ordinance D25-80** – An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Regarding Implementing Actions Associated With The 2024 Comprehensive Plan Periodic Update; Amending The Official Zoning District For Real Property Commonly Known As Parcel Numbers 2925000210 And 2925000220; Amending The Official Zoning Map; Amending The Bonney Lake Municipal Code For Consistency With The Comprehensive Plan And State Law; Providing For Severability And Corrections; And Establishing An Effective Date.

Councilmember Baldwin moved to approve AB25-80 – Ordinance D25-80. Deputy Mayor Swatman seconded the motion.

Councilmember Baldwin put forth five separate amendments to the original text.

Councilmember Baldwin moved to direct staff to remove Sections 70 and 83 in their entirety, remove the term “unit lot” or “unit lot subdivision” from Sections 7, 11, 19, 27, 30, 36, 41, 55, 56, 57, 60, 61, 65, 71, 72, 73, 74, 77, 78, 124, 125, 129, remove the term “parent lot” from Section 65, remove Findings of Fact 23 and 58, and take all other necessary steps to update the draft ordinance related to land divisions to effectuate the intent of this amendment. Councilmember Fullerton seconded the motion.

Council had no discussion on this topic.

Motion to remove all provisions related to unit lot subdivisions approved 7 – 0.

Councilmember Baldwin moved to direct staff to remove Sections 69 and 82 in their entirety, remove the term “lot split”, “administrative lot split”, “lot split survey”, and “administrative lot split survey” from Sections 7, 19, 27, 28, 56, 57, 60, 61, 65, 73, 74, 124, 125, 129, remove Findings of Fact 31 and 66, and take all other necessary steps to update the draft ordinance related to land divisions to effectuate the intent of this amendment. Councilmember Fullerton seconded the motion.

Council had no discussion on this topic.

Motion to remove all provisions related to administrative lot splits approved 7 – 0.

Councilmember Baldwin moved to direct staff to amend the definition of co-living unit in Section 86 to add “complete bathroom facilities” after the word “provide” in the second line of the definition. Councilmember Baldwin then withdrew this amendment before it was stated by the Chair. Councilmember Fullerton seconded the motion. Councilmember Fullerton seconded the motion.

Council member Baldwin then offered a secondary amendment to change the line item from “complete bathroom facilities” to “3/4-bathroom facilities” with councilmember Fullerton concurring the change.

Motion to require that each co-living unit has its own 3/4-bathroom that is not part of the shared living space approved 7 – 0.

Councilmember Baldwin moved to add a section to the ordinance directing staff to bring back an ordinance in 2026 to amend Chapter 14.140 BLMC to authorize non-city initiated comprehensive plan amendments every year. Councilmember Fullerton seconded the motion.

Council discussed and shared their thoughts, including:

- Petitioning Councilmembers.
- Current Comprehensive Costs.

**Motion to provide direction to staff to bring back for the City Council consideration and amendment to allow non-city-initiated amendments every year instead of just in odd-numbered years approved 6 – 0.
Deputy Mayor Swatman voted no.**

Councilmember Baldwin moved to add a section to the ordinance directing staff to bring back an ordinance in 2026 to amend Chapter 15.16 BLMC to remove the requirement that every single-family home is required to have residential fire sprinklers. Councilmember Fullerton seconded the motion.

Council has no discussion on this topic:

Motion to provide direction to staff to bring back for the City Council consideration and amendment to allow non-city-initiated amendments every year instead of just in odd-numbered years approved 7 – 0.

Ordinance D25-80 as amended approved 7 – 0.

C. ~~AB91 Motion M25-91~~ A Motion Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign An Interlocal Agreement With The Town Of South Prairie For Municipal Court Services (Tabled to Future Agenda)

VI. EXECUTIVE SESSION: Mayor Carter announced the City Council will meet in Executive Session with Legal Counsel pursuant to RCW 42.30.110 (1)(i), to discuss potential litigation. He stated the session will last for 30 minutes and there will be no Council action following the session.

Due to no action being taken on the matter, Mayor Carter announced the Council Meeting would now be adjourned. The Closed Session started at 7:09 p.m. and concluded at 7:39 p.m.

VII. ADJOURNMENT:

At 7:08 p.m. the Meeting was adjourned by Mayor Carter with the common consent of the City Council.

Sadie A. Schaneman, MMC, City Clerk

Terry Carter, Mayor

Items presented to Council at the December 09, 2025, Meeting for the record: None

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are on file with the City Clerk. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

**CITY COUNCIL
SPECIAL WORKSHOP**

**DECEMBER 16, 2025
6:00 P.M.**

MINUTES



www.ci.bonney-lake.wa.us

Location: The physical location of the Council Meeting was at the Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington. The public was also given the option to call in or attend virtually the Council Meeting.

I. ORDER OF BUSINESS: The Councilmembers and City Clerks' Office were assembled at 6:00 p.m.

A. ROLL CALL: In attendance were Mayor Terry Carter (arrived at 8:15 p.m.), Deputy Mayor Dan Swatman, Councilmember Angela Baldwin, Councilmember Aaron Davis, Councilmember Kerri Hubler, Councilmember J. Kelly McClimans, and Councilmember Brittany Rock. Councilmember Gwendolyn Fullerton was not in attendance.

Councilmember Fullerton was excused without objection.

Staff members in attendance at the physical location were City Clerk Sadie Schaneman and Records and Disclosure Coordinator Kandice Besaw.

B. COUNCILMEMBER ORIENTATION: Council Orientation and Training.

City Clerk Schaneman and Records and Disclosure Coordinator Besaw presented to Council training and orientation that included an overview of the city departments, policies and procedures, and new procedures starting in January 2026.

C. ADJOURNMENT

At 9:30 p.m. the Meeting was adjourned by Mayor Carter with the common consent of the City Council.

Sadie A. Schaneman, MMC, City Clerk

Terry Carter, Mayor

Items presented to Council at the December 16, 2025, Special Workshop for the record:

1. Council Orientation Binder – City Clerk Schaneman.

Note: There was no documents to be added to the packet due to binders were filled with Elected Officials orientation documents, security, and confidential items.

Council Workshop Meeting

**January 6, 2026
6:00 PM**

Minutes



<http://www.bonneylake.gov/>

I. Call to Order

Mayor Carter called the meeting to order 6:00 P.M.

A. Pledge of Allegiance

Mayor Carter led the audience in the Pledge of Allegiance.

B. Roll Call

City Clerk Sadie Schaneman called the roll. In addition to Mayor Carter, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Angela Baldwin, Councilmember Aaron Davis, Councilmember Gwendolyn Fullerton, Councilmember Kerri Hubler, Councilmember J. Kelly McClimans, Councilmember Brittany Rock.

Staff members in attendance at the physical location were City Administrator John P. Vodopich, Police Chief Mark Berry, Chief Finance Officer Cherie Reiersen, Judge Anneke Berry, Administrative Services Director Chuck McEwen, Public Services Director Jason Sullivan, Judicial Branch Administrator Geri Resch, Judicial Specialist III Terri Terry, City Clerk Sadie Schaneman, Administrative Specialist II Debbie McDonald.

Staff members in virtual attendance were: None.

II. Announcements, Appointments and Presentations

A. Announcements

None.

B. Appointments

1. Oath of Office - Mayor

Mayor's Oath of Office was administered by City Clerk Schaneman.

2. Oath of Office - Councilmember 1

Mayor Carter administered the Oath of Office to Councilmember Fullerton.

3. Oath of Office - Councilmember 3

Mayor Carter Administered the Oath of Office to Councilmember Swatman.

4. Oath of Office - Councilmember 6
Mayor Carter Administered the Oath of Office to Councilmember Davis.
5. Oath of Office - Councilmember 7
Mayor Carter Administered the Oath of Office to Councilmember Rock.
6. Oath of Office - Judge
Chief Justice Stephens administered the Oath of Office to Judge Berry.
7. **AB26-0-** A Motion of the City Council of the City of Bonney Lake, Pierce County, Washington, Electing The Deputy Mayor And Assigning Councilmembers To The Council Standing Committees.

Mayor Carter called for nominations from the Council for the position of Deputy Mayor.

Councilmember Baldwin nominated Councilmember Swatman for Deputy Mayor.

Councilmember Fullerton nominated herself for Deputy Mayor.

Hearing no further nominations, Mayor Carter called for a vote of the Council.

The Council voted. Councilmember Fullerton received 3 votes and Councilmember Swatman received 4 votes. With a majority vote, Councilmember Swatman was reappointed the new Deputy Mayor

Deputy Mayor Swatman opened the conversation regarding appointments to the Council Standing Committees. Deputy Mayor Swatman asked the Councilmembers if they had a preference on what Committee they would like to be on. After discussions Deputy Mayor Swatman made the following appointments without objection from the Councilmembers:

Community Development Committee: Councilmembers Fullerton, McClimans, and Rock.

Public Safety Committee: Councilmembers Baldwin, Davis, and Hubler.

Finance Committee: Council agreed to wait and see who is appointed chairs of Public Safety Committee and Community Development Committee.

8. **AB26-1-** A Motion of the City Council of the City of Bonney Lake, Pierce County, Washington, Appointing The City's Representative To The Pierce County Regional Council.

City Clerk Schaneman informed Council that they are needing to appoint a representative and alternate to the Pierce County Regional Council. Mayor Carter

asked for any volunteers. Councilmember Fullerton volunteered to be the city representative and Councilmember Hubler volunteered to be the alternate.

Mayor Carter called for a vote. **The appointments were approved 7-0.**

9. **AB26-2-** A Motion of the City Council of the City of Bonney Lake, Pierce County, Washington, Appointing The City's Representative To The South Sound 911 Board of Directors.

City Clerk Schaneman informed Council that they are needing to appoint a representative and alternate to the South Sound 911 Board. Mayor Carter asked for any volunteers. Councilmember Hubler volunteered to be the city representative and Councilmember McClimans volunteered to be the alternate.

Mayor Carter called for a vote. **The appointments were approved 7-0.**

C. Presentations

None.

III. Public Hearing

None.

IV. Review of Council Minutes

None.

V. Council Open Discussion

Deputy Mayor Swatman:

City Action Days. Gave an overview of City Action Days and encouraged Council to attend.

Mayor Carter:

Legislative Top Priorities. Asked Council for their top legislative priorities to prepare a legislative agenda for City Action Days. Council discussed and gave automated license plate readers, public records act, public works assistance account, growth management act reform, protecting fairness in girl's sports, medical for kids, child safety, voting for sheriffs, state income tax, and indigent defense.

VI. Discussion/Action Items

None.

VII. Discussion Items

- A. **AB26-3-** A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Changing The Regular Meeting Start Time For The Council's

Community Development Standing Committee.

Introduced by City Clerk Schaneman who presented the history and reasoning for changing the start time. The Council had no discussion on this item.

There was Council consensus to place the item for action on the next Council agenda under the Consent Agenda.

- B. **AB26-4-** A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Amending Administration And Police Department Sections Of The City's Fee Schedule Of Resolution 3282 To Add Clarifying Language And Update Fees In The Police Department Section.

Introduced by City Clerk Schaneman who gave an overview of why the edits are needed. The Council had no discussion on this item.

There was Council consensus to place the item for action on the next Council agenda under the Consent Agenda.

- C. - A Motion of the City Council of the City of Bonney Lake, Pierce County, Washington, Amending The Council Policies And Procedures To Update The Parliamentary Procedure, Parliamentarian, Public Comments, And Council Committees Sections.

Introduced by City Clerk Schaneman who gave an overview of the standardizing the parliamentary procedure for all meetings, changes to the parliamentarian, and other procedural updates that were requested by Council. The Council discussed and shared their concerns, including:

- Seeing the differences between Sturgis and Robert's Rules of Order
- Changing committee chairs to should instead of must have 1 year experience
- Changing new Councilmembers must be on Public Safety to it is suggested

There was Council consensus to place the item for action on the next Council agenda under the Consent Agenda.

- D. - Changing Frequency Of Council Meetings

Introduced by City Clerk Schaneman who presented options for Council to review for possibly changing the frequency of meetings. The Council discussed and shared their concerns, including:

- Staff turn around
- Cancelling of meetings
- Public Meetings
- Short meetings
- Affects to Standing Committees

There was Council consensus to have three meetings a month on the first three Tuesdays of each month. Committee meetings will happen the first two Tuesdays of the month. With Community Development Committee meeting on the first Tuesday of the month. Finance Committee and Public Safety Committee meetings will be held on the second Tuesday of the month.

There was Council consensus to place the item for action on the next Council agenda under the Consent Agenda.

VIII. Executive/Closed Session

None.

IX. Adjournment

At 7:25 p.m. the Meeting was adjourned by Mayor Carter with the common consent of the City Council.

Sadie A. Schaneman, MMC, City Clerk

Terry Carter, Mayor

Items presented to Council at the January 6, 2026, Meeting for the record: None.

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are added to the back of the packet the next day. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

City of Bonney Lake, Washington
City Council Agenda Bill (AB)

Agenda Bill Number:	AB26-19 -
Agenda Item Type:	Ordinance
Presenter:	Jason Sullivan, Public Services Director
City Strategic Goal Category:	None
Department/Division Submitting:	Public Services Director
Impacted Departments That Received Notification:	Administrative Services

Full Title/Motion: An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Granting A Non-Exclusive Telecommunications Franchise In, Across, Over, Along, Under, Through And Below The Public Rights-Of-Way Of The City Of Bonney Lake To Ezee Fiber Texas, LLC, Providing For Severability And Corrections; Requiring Acceptance By The Franchisee Within 30 Days; And Establishing An Effective Date.

Short Background Summary:

Ezee Fiber is currently expanding into the Washington State market and submitted a request for a new franchise agreement to install and maintain fiber optic cable within the City's right-of-way. Ezee Fiber intends to build a 10Gbps+ speeds fiber optic network across the entire City of Bonney Lake for all residents, businesses, schools, government buildings, healthcare facilities, and bandwidth-intensive businesses for both point-to-point connectivity and Internet connectivity. Accordingly, Ezee Fiber requests that the authorized franchise area encompasses the entire jurisdiction of the City.

Ezee Fiber will utilize underground construction methods, installing new fiber in newly placed conduits. The proposed installation consists solely of fiber optic cable infrastructure and related equipment housed within ground-level cabinets. Design maps will be completed by Ezee Fiber's engineering and design firm and sent to the City upon completion, typically 3-4 months after the Franchise Agreement is approved and prior to the preferred construction start date.

Consistent with City Council direction, the proposed franchise agreement is only for an initial 5-year term. Under the proposed franchise agreement, Ezee Fiber can request that the Mayor approve a renewal of the franchise agreement up to a maximum of two additional 5-year terms.

Budget Explanation:

Committee, Board, Commission, & Hearing Examiner Review

Name Of Committee/Commission/Examiner Meeting: Community Development Committee

Date of Committee/Commission/Examiner Meeting: 1/6/2026

Date of Committee/Commission Public Hearing:

Committee/Commission/Examiner Meeting Decision: CDC moved this item forward to the full Council with a do pass recommendation.

Council Action		
Date of Council Workshop	Date of Council Meeting	Date of Council Public Hearing
1/20/2026	2/3/2026	

ORDINANCE NO. D26-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, GRANTING A NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF BONNEY LAKE TO EZEE FIBER TEXAS, LLC, PROVIDING FOR SEVERABILITY AND CORRECTIONS; REQUIRING ACCEPTANCE BY THE FRANCHISEE WITHIN 30 DAYS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Ezee Fiber Texas, LLC, a Delaware limited liability company, and wholly owned subsidiary of AT&T, Inc. (hereinafter “Franchisee”) applied to the City for a franchise agreement to provide telecommunications services within the City of Bonney Lake; and

WHEREAS, pursuant to RCW 35A.47.040, the City Council has the authority to grant franchises for telecommunication services in the City’s rights of way; and

WHEREAS, the City Council is willing to approve the Franchisee’s request subject to the terms and conditions in the Proposed Franchise, which both the City Council and the Franchisee reviewed and deemed acceptable; and

WHEREAS, on January 20, 2026, the City Council considered the Proposed Franchise at a regularly Council meeting; and

WHEREAS, on February 3, 2026, the City Council at a regular meeting approved the Proposed Franchise by a majority of the entire city council consistent with the requirements of RCW 35A.47.040; **NOW THEREFORE**,

THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The recitals set forth above are hereby adopted as findings in support of this ordinance.

Section 2. Franchise Granted. The City Council approves the Proposed Franchise, as shown in **Exhibit A**, and grants the Franchisee a non-exclusive franchise to provide telecommunication services in, across, over, along, under, through and below the City’s rights of way.

Section 3. Deadline for Acceptance. The rights and privileges granted pursuant to this Ordinance shall not become effective until the Franchisee accepts the terms and

conditions in the Proposed Franchise. Such acceptance shall be filed with the City Clerk within thirty (30) days after the Effective Date (as defined in Section 7 below), and must contain: (a) a true and correct copy of the Proposed Franchise executed by the Franchisee; (b) any required letter of credit or other security instrument required under the Proposed Franchise; (c) evidence of insurance required under the Proposed Franchise; and (d) full payment of any applicable application fees pursuant to BLMC, including any and all attorney's fees incurred in negotiating, reviewing, drafting, and processing this Franchise. Such instrument shall evidence the unconditional acceptance of the terms hereof and a promise to comply with and abide by the provisions, terms and conditions in the Proposed Franchise.

Section 4. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be 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 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. Corrections. Upon the approval of the city attorney, the city clerk, and/or the code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto, provided that such corrections do not modify the intent of this Ordinance.

Section 7. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

ADOPTED by the City Council of the City of Bonney Lake and attested by the City Clerk in authentication of such passage on this ___ day of _____, 2026.

APPROVED by the Mayor this ___ day of _____, 2026.

Terry Carter, Mayor

AUTHENTICATED:

Sadie A. Schaneman, CMC, City Clerk

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: _____

EXHIBIT A

PROPOSED FRANCHISE

**NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE
WITH EZEE FIBER TEXAS, LLC**

THIS TELECOMMUNICATIONS FRANCHISE (this “**Franchise**”) is entered into on _____, 2025, by and between the City of Bonney Lake, a municipal corporation (“**City**”) and EZEE FIBER TEXAS, LLC, a Delaware limited liability company, and wholly owned subsidiary of AT&T, Inc. (“**Franchisee**”).

Section 1. – Definitions. In addition to terms otherwise defined herein, the following definitions shall apply generally to the provisions of this Franchise.

- 1.1 “**Affiliate**” means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Franchisee.
- 1.2 “**Applicable Laws**” means any local, federal, or state statute, law, regulation, or other legal authority governing any of the matters addressed in this Franchise, as all now exist or as later amended or superseded.
- 1.3 “**City**” means the City of Bonney Lake, Washington, a Washington municipal corporation.
- 1.4 “**Control**” means, with respect to: (i) a U.S. corporation, the ownership, directly or indirectly, of 50% or more of the voting power to elect directors thereof; or (ii) a non-U.S. corporation, if the voting power to elect directors thereof is less than 50%, the maximum amount allowed by Applicable Laws; and (iii) any other Person, 50% or more ownership interest in this Person, or the power to direct the management of such Person.
- 1.5 “**Emergency Situation**” means a condition posing an imminent threat to property, life, health, or safety of any Person or entity.
- 1.6 “**Facilities**” or “**Network**” means one or more elements of Franchisee’s fiber network, with all necessary underground fiber optic cables, lines, wires, or strands and associated appurtenances; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; vaults; and other similar facilities.
- 1.7 “**Force Majeure Event**” means natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Franchisee’s ability to provide Services in the City and which was not caused and could not have been avoided by the Franchisee which used its best efforts in its operations to avoid such results.
- 1.8 “**Franchisee**” means Ezee Fiber Texas, LLC, a Delaware limited liability company.
- 1.9 “**Hazardous Substances**” means any substance or material that is regulated by any current or future federal, state, or local statutes, regulations, ordinances, and rules relating to: the emission, discharge, release, or threatened release of any hazardous substance into the air, surface water, groundwater, or land; the manufacturing, processing, use, generation, treatment, storage, disposal,

transportation, handling, removal, remediation, or investigation of a hazardous material; and the protection of human health, safety, or the indoor or outdoor environment, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601, et seq.; the Clean Water Act, 33 U.S.C. §§ 1251, et seq.; the Clean Air Act, 42 U.S.C. §§ 7401, et seq.; the Occupational Safety and Health Act, 29 U.S.C. §§ 651, et seq.; all applicable environmental statutes of the State of Washington; and all other federal, state, or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders, or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material, as now or at any time hereafter in effect.

1.10 **“Mayor”** means the Mayor or Mayor’s designee.

1.11 **“Parties”** (singular **“Party”**) refers to both the City and Franchisee.

1.12 **“Person”** means any natural person, or public or private legal entity of any kind.

1.13 **“Public Improvement”** means the establishment and improvement of new Rights-of-Way, widening or improvement of existing Rights-of-Way or both, freeway construction, change or establishment of street grade, the modification, relocation, or removal of City electrical infrastructure, including utility poles, or the construction of any public infrastructure by any governmental agency acting in a governmental capacity as approved by the City, or as otherwise necessary for the operations of the City or other governmental entity.

1.14 **“Rights-of-Way”** (singular **“Right-of-Way”**) as used in this Franchise, means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle, pathways, spaces, or other public right-of-way, and over which the City has authority to grant permits, licenses, or franchises for use thereof, or has regulatory authority thereover. Right-of-Way does not include railroad right-of-way, airports, harbor areas, buildings, parks, poles, conduits, open spaces, nature trails, poles, dedicated but un-opened right-of-way, environmentally sensitive areas and any land, facilities, or property owned, maintained, or leased by the City in its governmental capacity, proprietary capacity, or as an operator of a utility.

1.15 **“Services”** (singular **“Service”**) means telecommunications services, including internet access services as defined in RCW 82.04.297. Services do not include cable services as defined in 47 U.S.C. § 522(6), wireless communication services, or multi-channel video programming services.

Section 2. – Franchise Granted.

2.1 **Franchise and Term.** Pursuant to RCW 35A.47.040, the City hereby grants to Franchisee, its successors, legal representatives, and assigns, subject to the terms and conditions set forth herein, a non-exclusive Franchise for a period of five (5) years, beginning on the effective date of the ordinance authorizing this Franchise (the “Effective Date”).

2.1.1. **Renewal Option of Term.** The Franchisee may renew this Franchise for two (2)

additional five (5) year periods upon submission and approval of the application for such renewal. The application shall be reviewed for approval by the Mayor. Approval of any materials submitted by the Franchisee for a previous application may be considered by the City in reviewing a current application, and the Franchisee shall only submit those materials deemed necessary by the City to address changes in the Franchisee's Facilities or Services, or to reflect specific reporting periods mandated by the City Code.

2.1.2. Failure to Renew Franchise – Automatic Extension. If the Parties fail to formally renew this Franchise prior to the expiration of its term or any renewal thereof, the Franchise automatically continues month-to-month until renewed or either Party gives written notice at least one hundred and eighty (180) days in advance of intent not to renew the Franchise.

2.2 Franchise Purpose. This Franchise grants Franchisee the right, privilege, and authority to construct, operate, maintain, replace, relocate, restore, upgrade, remove, excavate, acquire, sell, lease, and use all necessary Facilities for a fiber optic infrastructure network in, under, on, across, over, through, along, or below the public Rights-of-Way located in the City, and any other areas designated herein or added to the corporate limits of the City during the term of this Franchise (the “Franchise Area”) for the purpose of providing the Services.

2.3 Limited Authorization.

2.3.1 The authority granted by this Franchise is a limited, non-exclusive authorization to occupy and use the City’s Rights-of-Way and does not authorize Franchisee to use any property other than the Rights-of-Way as agreed herein. Nothing within this Franchise shall be construed to grant or convey any right, title, or interest in the Rights-of-Way of the City to Franchisee other than for the purpose of providing the Services. Franchisee’s use of any other City property, including City-owned or leased property, or poles, and conduits, must be governed under a separate agreement.

2.3.2 This Franchise shall not prevent the City from granting other franchises within its Rights-of-Way, nor shall it prevent or prohibit the City from using any Rights-of-Way, or affect its jurisdiction over any Rights-of-Way or any part of a Right-of-Way. The City retains power to make all necessary changes, relocations, repairs, maintenance, establishment, improvements, and dedication of Rights-of-Way as it deems fit, including the dedication, establishment, maintenance, and improvement of all new Rights-of-Way, thoroughfares, and other public properties of every type and description.

2.3.3 The City also reserves the right to amend this Franchise to conform to any hereafter enacted, amended, or adopted Applicable Laws relating to the public health, safety, and welfare, or relating to roadway regulation, upon providing Franchisee with thirty (30) days’ written notice of its action setting forth the full text of the amendment and identifying the Applicable Laws. This amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, Franchisee requests in writing to negotiate the terms of the amendment. If the Parties do not reach agreement as to the amendment terms within thirty (30) days of the request to negotiate, the City may enact the proposed amendment by incorporating Franchisee’s concerns to the maximum extent that the City, in its sole discretion, deems

reasonable.

2.4 Authorized Services.

2.4.1 Franchisee represents that it intends to provide the following services within the City: telecommunications services, including internet access services as defined in RCW 82.04.297 but excluding multi-channel video programming services, to residents, businesses, and governmental and educational entities within the City (the “Customers”). Franchisee may not offer cable services as that term is defined in 47 U.S.C. § 522(6). This Franchise does not authorize any wireless communications services.

2.4.2 Franchisee is authorized without prior City approval to offer or provide capacity or bandwidth, leased fiber or leased conduits, or any other Services set forth in this Section 2.4 to its Customers consistent with this Franchise provided:

- a. Franchisee at all times retains exclusive control over its Facilities and Services; remains responsible for constructing, installing, and maintaining its Facilities pursuant to the terms and conditions of this Franchise; and is solely responsible for providing and maintaining Services to its Customers;
- b. Franchisee may not grant rights to any Customer or lessee that are greater than any rights Franchisee has pursuant to this Franchise;
- c. Franchisee may not grant rights to any Customer or lessee allowing access or connection to the fiber optic connection points described in Section 2.4.2 above.
- d. Such Customer or lessee will not be construed to be a third-party beneficiary under this Franchise; and
- e. No Customer or lessee that accesses Franchisee’s Facilities within the City limits may use the Facilities or Services for any purpose not authorized by this Franchise unless that Customer has a franchise with the City. Then, the Customer may use Franchisee’s Facilities or Services consistent with the terms of its franchise.

2.5 Termination.

2.5.1 Termination by City. The City may terminate this Franchise if Franchisee is in material breach of the Franchise and has failed to cure the breach within the applicable notice and cure period as specified in Section 17. No termination under this subsection will be effective until the applicable notice and cure period has expired. Additionally, if Franchisee fails to apply for any permits to install Facilities within two (2) years of the Effective Date of this Franchise, the City may terminate this Franchise after providing Franchisee with written notice ninety (90) days in advance of termination.

2.5.2 Termination by Franchisee. Franchisee may terminate this Agreement for convenience upon written notice provided to the City at least one hundred and eighty (180) days in advance of termination.

Section 3. – Work in the Rights-of-Way.

3.1 Location of Facilities. Franchisee may locate its Facilities within the Franchise Area consistent with the City's Design and Construction Standards and subject to the City's applicable permit requirements.

3.2 Permits Required. Franchisee shall not commence any work within any Rights-of-Way without first obtaining all necessary permits as required by Applicable Laws. Franchisee shall pay the standard permit fee, and all lawful processing, field marking, engineering, and inspection fees associated with the issuance of permits by the City.

3.3 Work Requirements. During any period of relocation, construction, or maintenance, all work performed by Franchisee or its contractors shall be accomplished in a safe and workmanlike manner and only after obtaining permits or other authorization pursuant to Section 3.2 and this Section 3.3. Franchisee shall minimize interference with the free passage of traffic and the free use of adjoining property, whether public or private. Franchisee shall at all times post and maintain proper traffic control to warn and direct the road users, consistent with the requirements of Applicable Laws. Traffic control devices include but are not limited to barricades, traffic cones, traffic drums, tubular markers, flags, certified flaggers, lights, flares, and other measures as required for the safety of all members of the general public. Franchisee shall also comply with all applicable safety regulations during such period of construction as required by all Applicable Laws, including, without limitation, RCW 39.04.180 for the requirement of trench safety systems for trench excavations.

3.4 Work of Contractors and Subcontractors. Franchisee's contractors and subcontractors shall be licensed and bonded in accordance with Applicable Laws. Work by contractors and subcontractors is subject to the same restrictions, limitations, and conditions as if the work were performed by Franchisee. Franchisee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by Franchisee and shall ensure that all such work is performed in compliance with this Franchise and Applicable Laws.

3.5 Maintenance of Facilities. Franchisee shall, at its own expense, maintain its Facilities in a safe condition, in good repair, and in a manner suitable to the City. Additionally, Franchisee shall keep its Facilities free of debris and anything of a dangerous, noxious, or offensive nature or which would create a hazard or undue vibration, heat, noise, or any interference with City services.

3.6 Shared Excavation. If either the City or Franchisee plans to make excavations in any area covered by this Franchise and as described in this Section 3.6, the Party planning the excavation shall endeavor to afford the other an opportunity to share the excavation, PROVIDED THAT:

- a. The joint use shall not unreasonably delay the work of the Party causing the excavation to be made;
- b. The joint use shall be arranged and accomplished on terms and conditions satisfactory to both Parties; and
- c. The initiating Party may deny a request for constructability and/or safety reasons.

3.7 Coordination of Construction.

3.7.1 Except for Emergency Situations, Franchisee shall give advance written notice of intended construction to property owners and/or residents within one hundred (100) feet of the construction area as follows: if construction is ground disturbing, at least seven (7) days' notice shall be required; otherwise, forty-eight (48) hours' notice shall be required. The notice shall contain the dates, contact number, nature, and location of the work to be performed; a door hanger is permissible. At least twenty-four (24) hours before entering private property or streets or public easements adjacent to or on such private property, Franchisee shall physically post a notice on the property indicating the nature and location of the work to be performed; a door hanger is permissible. Nothing in this Franchise gives the Franchisee the right to enter onto private property without the permission of the private property owner.

3.7.2 Franchisee shall make a good faith effort to comply with the private property owner/resident's preferences, if any, on location or placement of underground installations, consistent with sound engineering practices. Following performance of the work, Franchisee shall restore the private property as nearly as possible to its condition prior to construction, except for any change in condition not caused by Franchisee. Any disturbance of landscaping, fencing, or other improvements on private property caused by Franchisee's work shall, at the sole expense of Franchisee, be promptly repaired and restored to the reasonable satisfaction of the property owner/resident.

3.7.3 Upon prior written notice from the City, Franchisee shall meet with the City and other franchise holders to schedule and coordinate construction in the Rights-of-Way and on City property where authorized. To minimize public inconvenience, disruption or damage, the Franchisee shall coordinate all construction locations, activities, and schedules as directed by the City.

3.8 One Call Locator Service. Before doing any work in the Rights-of-Way, the Franchisee shall follow established procedures, including contacting the Utility Notification Center in Washington and comply with all Applicable Laws regarding the One Call Locator Service pursuant to Chapter 19.122 RCW. Neither the City nor its contractors shall be liable for any damages to Franchisee's Facilities or for interruptions in service to Franchisee's Customers that are a direct result of Franchisee's failure to accurately locate its Facilities within the prescribed time limits and guidelines established by the One Call Locator Service regardless of whether the City issued a permit.

3.9 Restoration and Repair of Rights-of Way.

3.9.1 Franchisee shall repair any damage to the Rights-of-Way, and the property of the City or any third party, after installation, construction, relocation, maintenance, or repair of its Facilities or after abandonment approved pursuant to Section 15, within thirty (30) days following the date of any of these activities, at Franchisee's sole cost and expense. Franchisee shall restore the Rights-of-Way and the surface of the Rights-of-Way to the same or better condition as it was immediately prior to any installation, construction, relocation, maintenance, or repair by Franchisee. Franchisee shall not be responsible for any changes to the Rights-of-Way not caused by Franchisee or anyone doing work for Franchisee.

3.9.2 Franchisee agrees to complete all restoration work to the Franchise Area or other affected area at its sole cost and expense and according to the time and terms specified in the construction permit issued by the City or other agreement. Franchisee also agrees to repair any damage caused by work to the Franchise Area within fourteen (14) days unless otherwise approved by the Mayor. All work by Franchisee pursuant to this Franchise shall be performed in accordance with applicable City standards and shall be warranted. The warranty for Franchisee's work in a specified location will end if the (1) City completes a Public Improvement modifying or altering the pavement surface, including, but not limited to overlays, slurry seals, and chip seals; or (2) the pavement surface has reached the end of the industry recognized useful life of the type of pavement surface installed by Franchisee.

3.9.3 If conditions (*e.g.*, weather) make the complete restoration required under this Section 3 impracticable, Franchisee shall temporarily restore the affected Right-of-Way or property at its sole cost and expense to the City's satisfaction. Franchisee shall promptly undertake and complete the required permanent restoration as soon as conditions no longer make permanent restoration impracticable.

3.9.4 If Franchisee does not repair a Right-of-Way or an improvement in or to a Right-of-Way within the time prescribed by this Section 3, the City may repair the damage and shall be reimbursed its actual costs within sixty (60) days of submitting an itemized invoice to Franchisee in accordance with the provisions of Section 11. The City may also bill Franchisee for any expenses associated with the inspection of this repair work and for costs incurred by the City for delays impacting Public Improvements.

3.10 Survey Monuments. No survey monument may be removed (or replaced) without a professional land surveyor obtaining a permit in advance from the Washington State Department of Natural Resources and submitting a copy of the approved permit to the City. Franchisee shall restore all concrete encased monuments that will be disturbed or displaced by such work to City standards and specifications. The Mayor shall have final approval of the condition of the Rights-of-Way after repair or restoration by the Franchisee.

3.11 Graffiti Removal. Franchisee shall remove all graffiti on any of its Facilities no later than fourteen (14) days from the date Franchisee receives written notice from the City or is otherwise made aware of the graffiti. Facilities installed above ground, such as cabinets, shall have their exterior surface wrapped with an anti-graffiti gloss overlamine.

Section 4. – Relocation of Facilities.

4.1 Relocation Requirement.

4.1.1 Franchisee agrees to protect, support, temporarily disconnect and then reconnect, relocate, or remove from any Rights-of-Way any of its Facilities when required by the City, in its sole discretion, for Public Improvement.

4.1.2 If the City's request for relocation arises from a Public Improvement, in which Facilities must be either replaced, relocated, or removed, then Franchisee shall promptly relocate or remove its Facilities at its sole cost and expense, subject to the procedure in Section 4.3.

Franchisee acknowledges and agrees that the placement of Facilities on third party-owned or City owned structures does not convey an ownership interest in these structures.

4.2 Design Locates. To facilitate the design of City street and Right-of-Way improvements, upon written request of the City, or a third party performing work in the Right-of-Way, Franchisee shall, at its sole cost and expense, locate, and if determined necessary by the City, excavate, and/or survey its Facilities so that as the Facilities' location may be taken into account in the design of the improvements. The decision as to whether any Facilities need to be relocated to accommodate the Public Improvement shall be made by the City, in its sole discretion. The Franchisee shall respond to the City's request for excavation and/or survey within thirty (30) days.

4.3 Notice and Relocation Procedure. If the City determines a Public Improvement necessitates the relocation of Franchisee's existing Facilities, the City shall:

a. At least ninety (90) days before commencing the Public Improvement, provide Franchisee with written notice requiring such relocation and a date by which relocation must be complete; except that in the event of an Emergency Situation, the City shall give Franchisee written notice as soon as practicable; and

b. At least ninety (90) days before commencing the Public Improvement, provide Franchisee with copies of pertinent portions of the plans and specifications for the improvement project and a proposed location for Franchisee's Facilities so that Franchisee may relocate its Facilities in other City Rights-of-Way in order to accommodate such improvement project; and

c. After receipt of this notice and such plans and specifications, Franchisee shall complete relocation of its Facilities by the date established in accordance with this Section 4.3 at no charge or expense to the City, except as otherwise provided by law. Relocation shall be accomplished in such a manner as to accommodate the Public Improvement.

4.4 Alternative Arrangements. The Franchisee may make its own appropriate arrangements in response to a request for relocation of its Facilities from a Person or entity other than the City, so long as any improvements being constructed are not or will not become City-owned, operated or maintained; except that any such arrangements shall not delay a Public Improvement.

4.5 Public Improvement Delay Claims. Franchisee shall be solely responsible for the out-of-pocket costs incurred by the City for delays in a Public Improvement to the extent the delay is caused by or arises out of Franchisee's failure to comply with the final schedule for the relocation (other than as a result of a Force Majeure Event or causes or conditions caused by the acts or omissions of the City or any third party unrelated to Franchisee; Franchisee vendors and contractors shall not be considered unrelated third parties). The out-of-pocket costs may include, but are not limited to, payment to the City's contractors and/or consultants for increased costs and associated court costs, interest, and reasonable attorneys' fees incurred by the City to the extent directly attributable to Franchisee's caused delay in the Public Improvement. In addition to recovery of the City's actual costs, the failure of Franchisee to timely remove its facilities by the deadline provided by the City shall result in liquidated damages in the amount of \$250 per day as

set forth in Section 17.2. Franchisee shall pay all liquidated damages due no later than thirty (30) days after the date that the City invoices the same. Liquidated damages hereunder are in addition to any other penalties that may be imposed under other agreements between the Parties.

4.6 Moving of Buildings or Other Objects. Franchisee shall, on the request of any private individual or private entity holding a valid permit issued by a governmental authority, temporarily remove, raise, or lower its Facilities to permit the moving of buildings or other

objects. The expense of the temporary removal, raising, or lowering of Facilities shall be at the expense of the requestor if the requestor is not performing a Public Improvement, which is determined by the City in its sole discretion.

4.7 City's Costs. If Franchisee fails, neglects, or refuses to remove or relocate its Facilities as directed by the City following the procedures outlined in this Section 4, the City may perform this work or cause it to be done, and the Franchisee shall pay the City's costs in accordance with Section 11.

Section 5. – Undergrounding of Facilities.

5.1 Installation. Franchisee's Facilities shall be installed underground, including in those areas where existing fiber, telephone, cable, or electric services are underground at the time of Network construction. Franchisee shall also underground its Facilities in all new developments and subdivisions and in any development or subdivision where utilities are currently underground.

5.2 Utility Trench Access. Franchisee may be provided reasonable access to open utility trenches constructed as part of a Public Improvement, so long as this access does not interfere with the City's placement of utilities or increase the City's costs. Franchisee shall pay the City's actual costs of providing Franchisee access to an open trench, including without limitation the pro rata share of the costs of access to an open trench and any costs associated with the delay of the completion of the project. Franchisee shall reimburse the City in accordance with the provisions of Section 11.

5.3 Removal of Fiber. Franchisee shall not remove any underground cable or conduit that requires trenching or other opening of the Rights-of-Way along the extension of cable to be removed without a permit as may be required by Applicable Laws.

Section 6. – Information, Inventory, and Records.

6.1 Information Request.

6.1.1 Franchisee shall supply and maintain, at no cost to the City, any information reasonably requested by the City to coordinate its functions with the Franchisee's activities and fulfill any municipal functions under Applicable Laws. This required information may include, but is not limited to, any installation inventory, location of existing or planned Facilities, maps, plans, operational data, and as-built drawings of Franchisee's Facilities in the City. Franchisee shall warrant the accuracy of all information provided to the City.

6.1.2 Within thirty (30) days of a written request from the Mayor, but no more than once annually, the Franchisee shall furnish the City with information sufficient to demonstrate: 1) that

the Franchisee has complied with all applicable requirements of this Franchise; and 2) that all utility taxes due to the City in connection with the Franchisee's Services and Facilities have been properly collected and paid by the Franchisee.

6.2 Current Inventory. Franchisee shall maintain a current inventory of Facilities throughout the Term of this Franchise. Franchisee shall provide a copy of the inventory report within sixty (60) days of a reasonable request by the City. The inventory report shall include a route map of those basic portions of the fiber system that are located within the Right-of-Way and be in a digital format and the location of the Facilities, including the depth below the finished surface. Franchisee shall cooperate with the City to furnish this information in an electronic mapping format compatible with the current City electronic mapping format.

6.3 Inspection. All books, records, maps, and other documents maintained by Franchisee with respect to its Facilities within the Rights-of-Way shall be made available for inspection by the City at reasonable times and intervals; except that nothing in this Section 6.3 shall be construed to require Franchisee to violate Applicable Laws regarding customer privacy, nor shall this Section 6.3 be construed to require Franchisee to disclose proprietary or confidential information without adequate safeguards for its confidential or proprietary nature. Unless otherwise permitted or required by Applicable Laws, nothing in this Section 6.3 shall be construed as permission to withhold relevant customer data from the City that the City requests in conjunction with a tax audit or review; except that Franchisee may redact identifying information such as names, street addresses (excluding City and zip code), Social Security Numbers, or Employer Identification Numbers related to any confidentiality agreements Franchisee has with third parties.

6.4 Public Records Act. Franchisee acknowledges that information submitted to the City is subject to the Washington Public Records Act, Chapter 42.56 RCW, and is open to public inspection, subject to any exceptions permitted by Applicable Laws.

6.4.1 Franchisee may identify documents submitted to the City that Franchisee believes are non-disclosable, such as trade secrets. Franchisee shall be responsible for clearly and conspicuously identifying the work as confidential or proprietary and shall provide a brief written explanation as to why the information is confidential and how it may be treated as such under Applicable Laws.

6.4.2 If the City receives a public records request under Chapter 42.56 RCW or similar law for the disclosure of the documents or any part of the documents Franchisee has designated as confidential, trade secret, or proprietary, the City shall provide Franchisee with written notice of the request, including a copy of the request before disclosure so that Franchisee can take appropriate steps to protect its interests. Nothing in this Section 6.4 prohibits the City from complying with Chapter 42.56 RCW or any other Applicable Laws or court order requiring the release of public records, and the City shall not be liable to Franchisee for compliance with any law or court order requiring the release of public records. The City will not assert an exemption from disclosure or production on Franchisee's behalf.

6.4.3 The City shall comply with any injunction or court order obtained by Franchisee that prohibits the disclosure of any such confidential records. If a higher court overturns an injunction

or court order and the higher court action is or has become final and non-appealable, Franchisee shall reimburse the City for any fines or penalties imposed for failure to disclose these records within forty-five (45) days of a request from the City, unless additional time is reasonably necessary under the circumstances and is agreed to by the Parties.

6.5 Annual Audit. On an annual basis, upon thirty (30) days' written notice, the City shall have the right to conduct an independent audit of Franchisee's records reasonably related to the administration or enforcement of this Franchise, in accordance with generally accepted accounting practices and any standards adopted by the Governmental Accounting Standards Board. If the audit shows that tax or fee payments have been underpaid by 3% or more, Franchisee shall pay the total cost of the audit.

Section 7. – Unauthorized Facilities.

7.1 Any Facilities installed in the City Right-of-Way that are not authorized under this Franchise or other required City Approval (“Unauthorized Facilities”) will be subject to the payment of an Unauthorized Facilities charge by Franchisee. City shall provide written notice to Franchisee of any Unauthorized Facilities identified by City staff and Franchisee shall have thirty (30) days thereafter in which to establish that this installation was authorized or obtain the applicable permit. Failure to establish that the installation is authorized will result in the imposition of an Unauthorized Facilities charge in the amount of One Thousand Dollars (\$1,000.00) per Unauthorized Facility per day starting on the thirty-first (31st) day following notice. Franchisee may submit an application to the City under this Franchise for approval of the Unauthorized Facilities. If the application for the Unauthorized Facilities is denied, Franchisee shall remove the Unauthorized Facilities from the City’s Right-of-Way within thirty (30) days after the expiration of all appeal periods for such denial. The City shall not refund any Unauthorized Facilities charges unless Franchisee is successful in an appeal. This Franchise remedy is in addition to any other remedy available to the City at law or equity.

Section 8. – Safety Requirements.

8.1 Safe Conditions. Franchisee shall at all times, at its own expense, maintain its Facilities in, over, under, and upon the Rights-of-Way in a safe condition, in good repair, and in a manner suitable to the City. Additionally, Franchisee shall keep its Facilities free of debris and anything of a dangerous, noxious, or offensive nature or which would create a hazard or undue vibration, heat, noise, or any interference with City services. Upon reasonable notice to Franchisee, the City reserves the general right to inspect the Facilities to evaluate if they are being maintained in a safe condition. If an unsafe condition or a violation of this Section 8.1 becomes known to the City, the City agrees to give Franchisee written notice of the condition and afford Franchisee a reasonable opportunity to repair the condition. If Franchisee fails to start to make the necessary repairs and alterations within a reasonable time frame specified in the notice (and pursue the cure to completion), then the City may make the repairs or contract for them to be made. All costs, including but not limited to administrative costs, consultant costs, and attorneys’ fees, incurred by the City in repairing any unsafe conditions shall be borne by Franchisee and reimbursed to the City.

8.2 Additional Safety Standards. Additional safety standards include:

- a. Franchisee shall maintain all equipment lines and Facilities in an orderly manner, including, but not limited to, the removal of all bundles of unused cable.
- b. All installations of equipment, lines, and ancillary Facilities shall be installed in accordance with industry-standard engineering practices and shall comply with all federal, State, and local regulations, ordinances, and laws.
- c. The Franchisee shall protect any opening or obstruction in the Rights-of-Way or other public places made by Franchisee in the course of its operations with adequate barriers, fences, or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly marked and visible at night.

8.3 Hazardous Substances. Franchisee shall not introduce or use any Hazardous Substances in violation of any Applicable Laws, nor shall Franchisee allow any of its agents, contractors, or any Person under its control to do the same. Franchisee will be solely responsible for and will defend, indemnify, and hold the City, its officers, officials, employees, agents, and volunteers harmless from and against any claims, costs, and liabilities including reasonable attorney fees and costs, arising out of or in connection with the cleanup or restoration of the property to the extent caused by Franchisee's use, storage, or disposal of Hazardous Substances, whether or not intentional, and the use, storage, or disposal of such substances by Franchisee's agents, contractors, or other Persons acting under Franchisee's control, whether or not intentional. Franchisee shall have only that responsibility or liability for managing, monitoring, or abating a hazardous condition that it may have under state or federal law and this Franchise shall not be interpreted to expand Franchisee's legal obligations relating to any pre-existing Hazardous Substances undisturbed by Franchisee.

Section 9. – Provision of Conduit.

9.1 Except in Emergency Situations, Franchisee shall provide the Mayor with at least thirty (30) days' advance written notice of any construction, relocation, or placement of ducts or conduits in the Rights-of-Way and provide the City an opportunity to request that Franchisee provide the City with additional duct or conduit, and related structures necessary to access the conduit, pursuant to RCW 35.99.070, in one or more of the locations where Franchisee constructs, installs, or relocates Facilities underground. If so requested, the conduit shall be provided at Franchisee's incremental cost and per the terms of a separate agreement. Franchisee shall install a locator wire and cap off all conduit ends. Conduit ends shall be marked on any as-built plans and maps requested pursuant to Section 6. Any conduit delivered to the City pursuant to this Section 9 will become property of the City, and Franchisee will have no ongoing maintenance, liability, or other obligations to the City or any third party with respect to the conduit. The City shall make any request for conduit per this Section 9 request in writing before issuance of the applicable permit to Franchisee.

Section 10. – Emergency Situations.

10.1 Immediate Action Required. In the event of any Emergency Situation in which any of

Franchisee's Facilities located in or under any street endangers the property, life, health, or safety of any Person, entity, or the City, or if Franchisee's construction area is otherwise in such a condition as to immediately endanger the property, life, health, or safety of any Person, entity, or the City, Franchisee shall immediately repair its Facilities and cure or remedy the dangerous conditions for the protection of property, life, health, or safety of any Person, entity or the City, without first applying for and obtaining a permit as required by this Franchise. The Franchisee shall apply for any necessary permits on the next day Bonney Lake City Hall is open for business.

10.2 Lateral Support. Whenever the construction, installation, or excavation of Facilities authorized by this Franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, an adjoining public place, street utilities, City property, Rights-of-Way, or private property (collectively "Endangered Property") or endangers the public, the Mayor may direct Franchisee, at Franchisee's own expense, to take reasonable action to protect the Endangered Property or the public within a prescribed time. If Franchisee fails or refuses to promptly take the actions directed by the City, or fails to fully comply with the directions, or if an Emergency Situation exists that requires immediate action before the City can timely contact Franchisee to request Franchisee effect the immediate repair, the City may enter upon the Endangered Property and take such reasonable actions as are necessary to protect the Endangered Property or the public. Franchisee shall be liable to the City for the costs of any such repairs in accordance with the provisions of Section 11.

10.3 Reimbursement. Franchisee shall promptly reimburse the City in accordance with the provisions of Section 11 for any and all costs the City reasonably incurs in response to any Emergency Situation involving Franchisee's Facilities, to the extent this emergency is not the fault of the City. The City agrees to simultaneously seek reimbursement from any other franchisee or permit holder who caused or contributed to the Emergency Situation.

Section 11. – Recovery of Costs.

11.1 Administrative and Other Costs. Franchisee shall be subject to a \$5,000 administrative fee as a fee deposit for the payment of costs associated with the preparation, processing, and approval of this Franchise Agreement, including wages, benefits, overhead expenses, meetings, negotiations, and other functions related to the approval. In addition, the Franchisee shall be responsible for reimbursement of all of the City's attorney's fees for this Agreement. The Franchisee shall also pay the cost of publication for this Franchise. To the extent that the fee deposit is not otherwise exhausted, the attorney's fees shall be reimbursed from the fee deposit. However, to the extent that the City's costs, including but not limited to attorney's fees, exceeds the fee deposit, Franchisee agrees to pay any additional costs as set forth in this section. The fee deposit excludes normal permit fees required for work in the Right-of-Way. Payment of all the City's expenses as set forth in this Section shall be made in full prior to Franchise approval. No construction permits shall be issued for the installation of Facilities authorized until the City has received the reimbursements as required by this Section.

11.2 Additional Costs. Franchisee shall further be subject to all permit fees associated with activities undertaken through the authority granted in this Franchise or under the laws of the City.

Where the City incurs costs and expenses for review, inspection, or supervision of activities, including but not limited to reasonable fees associated with attorneys, consultants, City Staff and City Attorney time, undertaken through the authority granted in this Franchise or any ordinances relating to the subject for which a permit fee is not established, Franchisee shall pay these costs and expenses directly to the City in accordance with the provisions of Section 11.4.

11.3 City Project Costs. Franchisee shall reimburse the City for Franchisee's proportionate share of all actual, identified expenses incurred by the City in planning, constructing, installing, repairing, altering, or maintaining any City facility as the result of the presence of Franchisee's Facilities in the Rights-of-Way. These costs and expenses shall include but not be limited to Franchisee's proportionate cost of City personnel assigned to oversee or engage in any work in the Rights-of-Way as the result of the presence of Franchisee's Facilities in the Rights-of-Way. These costs and expenses shall also include Franchisee's proportionate share of any time spent reviewing construction plans in order to either accomplish the relocation of Franchisee's Facilities or the routing or rerouting of any utilities so as not to interfere with Franchisee's Facilities.

11.4 Payment of Costs. The time of City employees shall be charged at their respective rate of salary, including overtime if applicable, plus benefits and reasonable overhead. Any other costs will be billed proportionately on an actual cost basis. All billings will be itemized so as to specifically identify the costs and expenses for each project for which the City claims reimbursement. A charge for the actual costs incurred in preparing the billing may also be included in the billing. Franchisee shall reimburse the City within thirty (30) days of submittal by the City of an itemized billing for costs incurred under this Section 11.

Section 12. – City's Reservation of Rights.

12.1 Franchise Fees. The City is not seeking to impose any franchise fee or similar compensation for the benefits and privileges granted under this Franchise and in consideration of the permission to use the City's Rights-of-Way as of the effective date of this Franchise. However, the City reserves the right to impose a franchise fee upon one hundred and twenty (120) days' notice to Franchisee, if it believes it is consistent with Applicable Laws. Franchisee reserves the right to challenge the imposition of any such compensation if it believes it is inconsistent with Applicable Laws. Payment of a franchise fee under this Franchise shall not exempt Franchisee from the payment of any generally applicable fee, tax, or charge on the business, occupation, property, or income of Franchisee that may be imposed by the City. The City also reserves the right to require Franchisee to obtain a separate franchise for a change in use, which franchise may include provisions intended to regulate Franchisee's operations as allowed under Applicable Law. Nothing contained within this Franchise shall preclude Franchisee from challenging any fee, this Franchise, or separate agreement under Applicable Laws.

12.2 Utility Taxes. Franchisee acknowledges that certain of its operations within the City may constitute a telephone business and may be subject to utility taxes permitted under Applicable Laws. Franchisee agrees it shall be responsible for the payment of any applicable utility taxes, including, without limitation, any utility taxes enacted by the City after the Effective Date of this Franchise. Franchisee's obligation to pay such taxes shall not be considered a franchise fee or in

lieu of any other costs payable to the City as provided herein. Nothing in this Section 12.2 is intended to alter, amend, modify, or expand the taxes and fees that may lawfully be assessed on Franchisee's business activities under this Franchise under Applicable Laws.

Section 13. – Indemnification; Liability.

13.1 General Indemnification. Franchisee shall indemnify, defend, and hold the City, its officers, officials, boards, commissions, agents, volunteers, and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and attorneys' fees or expenses, arising from any casualty or accident to Person or property, including, without limitation, damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Franchisee, its agents, or its employees, or by reason of any neglect or omission of Franchisee. Franchisee shall consult and cooperate with the City while conducting its defense of the City under this Franchise. Franchisee shall not be obligated to indemnify the City for injuries or damages caused by the negligence or willful misconduct of the City.

13.2 Indemnification for Relocation. Franchisee shall defend, indemnify, and hold the City harmless for any damages, claims, additional costs or expenses and attorneys' fees, including contractor construction delay damages, assessed against or payable by the City contributing to Franchisee's failure to remove, adjust, or relocate any of its Facilities in the Rights-of-Way in accordance with any relocation required by the City, provided that Franchisee shall not be liable under this section if Franchisee's failure to remove, adjust, or relocate any of its Facilities is the result of a Force Majeure Event.

13.3 Procedures and Defense. If a claim or action arises, the City or any other indemnified party shall promptly notify Franchisee of such claim or action and tender the defense of the claim or action to Franchisee, which defense shall be at Franchisee's expense. The City's failure to notify and request indemnification shall not relieve Franchisee of any liability that Franchisee might have, except to the extent that such failure prejudices Franchisee's ability to defend such claim or suit. The City may participate in the defense of a claim, but if Franchisee provides a defense at Franchisee's expense, then Franchisee shall not be liable for any attorneys' fees, expenses, or other costs the City may incur if it chooses to participate in the defense of a claim, unless and until separate representation is necessary. Then, the provisions of Section 13.5 shall govern Franchisee's responsibility for City's attorney's fees, expenses, or other costs. In any event, Franchisee may not agree to any settlement of claims affecting the City without the City's consent, which will not be unreasonably withheld or delayed.

13.4 Avoidance. Inspection or acceptance by the City of any work performed by Franchisee at the time of completion of construction shall not be grounds for avoidance by Franchisee of any of its obligations under this Section 13. Whether Franchisee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Franchisee's duty of defense and indemnification under this subsection.

13.5 Expenses. If separate representation to fully protect the interests of both Parties is or becomes necessary, such as a conflict of interest between the City and counsel selected by

Franchisee to represent the City, Franchisee shall pay, from the date such separate representation is required forward, all expenses incurred by the City in defending itself with regard to any action, suit, or proceeding subject to indemnification by Franchisee. Except that, if separate representation is or becomes necessary, and the City desires to hire counsel or any other outside experts or consultants and desires Franchisee to pay those expenses, then the City shall be required to obtain Franchisee's consent to the engagement of such counsel, experts, or consultants, such consent not to be unreasonably withheld or delayed. The City's expenses shall include all out-of-pocket costs and expenses, such as consultants' fees and court costs, but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Franchisee, except in the event of a conflict of interest where such duplication may be required. Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any claim or action.

13.6 RCW 4.24.115. Should a court of competent jurisdiction determine that this Franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to Persons or damages to property caused by or resulting from the concurrent negligence of Franchisee and the City, its officers, officials, employees, and volunteers, Franchisee's liability shall be only to the extent of Franchisee's negligence. It is expressly understood that the indemnification provided herein constitutes Franchisee's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties.

Section 14. – Insurance.

14.1 Policies. Franchisee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

- a. Commercial General Liability insurance with limits of no less than \$5,000,000 per occurrence and \$5,000,000 general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the City, its officers, officials, and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the City, its officers, officials, and employees. Coverage shall apply as to claims between insureds on the policy, if applicable. Coverage may take the form of a primary layer and a secondary or umbrella layer, but the combination of layers must equal \$5,000,000 at a minimum.
- b. Commercial Automobile Liability insurance with minimum combined single limits of \$5,000,000.00 each occurrence with respect to each of Franchisee's owned, hired, and non-owned vehicles assigned to or used in the operation of the Facilities in the City. The policy shall contain a severability of interests provision.
- c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and employer's liability with a limit of \$5,000,000 each accident/disease/policy limit.
- d. Contractors Pollution Liability insurance shall be in effect throughout the entire

Franchise Agreement covering losses caused by pollution conditions that arise from the operations of the Franchisee. Contractors Pollution Liability shall cover bodily injury, property damage, cleanup costs and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims.

- e. Excess or Umbrella Liability insurance shall be excess over and at least as broad in coverage as the Franchisee's Commercial General Liability and Automobile Liability insurance. The City shall be named as an additional insured on the Franchisee's Excess or Umbrella Liability insurance policy.
- f. Contractors Pollution Liability insurance shall be written in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$2,000,000.
- g. Excess or Umbrella Liability insurance shall be written with limits of not less than \$5,000,000 per occurrence and annual aggregate. The Excess or Umbrella Liability requirement and limits may be satisfied instead through Franchisee's Commercial General Liability and Automobile Liability insurance, or any combination thereof that achieves the overall required limits.

If the Franchisee maintains broader coverage and/or higher limits than the minimums within this Section 14.1, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Franchisee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

14.2 Deductibles. Any deductible related to the insurance policies in Section 14.1 shall not in any way limit Franchisee's liability to the City.

14.3 Requirements. All policies shall contain, or shall be endorsed so that:

- a. The City, its officers, officials, boards, commissions, employees, and agents are to be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by, or on behalf of, Franchisee under this Franchise or Applicable Laws, or in the construction, operation or repair, or ownership of the Network;
- b. Franchisee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, boards, commissions, employees, volunteers, and agents. Any insurance or self-insurance maintained by the City, its officers, officials, boards, commissions, employees, and agents shall be in excess of the Franchisee's insurance and shall not contribute to it; and
- c. Franchisee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

14.4 Acceptability of Insurers. The insurance obtained by Franchisee shall be placed with insurers with a Best's rating of no less than "A VII."

14.5 Verification of Coverage. The Franchisee shall furnish the City with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy shall be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy shall be on forms that are consistent with standard industry practices.

14.6 Maintenance of Insurance. Franchisee's maintenance of insurance as required by this Section 14 shall not be construed to limit the liability of Franchisee to the coverage provided by such insurance or otherwise limit the City's recourse to any remedy available at law or equity. Further, Franchisee's maintenance of insurance policies required by this Franchise shall not be construed to excuse unfaithful performance by Franchisee.

Section 15. – Abandonment of Franchisee's Telecommunications Network.

15.1 Upon the expiration, termination, or revocation of the rights granted under this Franchise, Franchisee shall remove all of its Facilities from the Rights-of-Way within thirty (30) days of receiving written notice from the Mayor. The Facilities, in whole or in part, may not be abandoned by Franchisee without written approval by the City. Any plan for abandonment or removal of Franchisee's Facilities must be first approved by the Mayor, and all necessary permits must be obtained before this work. The plan for abandonment shall include a proposal and instruments for transferring ownership to the City. Any Facilities that are not permitted to be abandoned in place and that are not removed within thirty (30) days of receipt of the City's notice may be removed by the City and the area restored at Franchisee's cost. Franchisee shall pay these costs to the City within thirty (30) days of receiving an invoice. If Franchisee fails to pay the City within this timeframe, the City may avail itself of any remedy available at law or equity.

Section 16. – Bonds.

16.1 Construction Guarantee. As a condition of performing work in the Right-of-Way, the timely, complete, and faithful performance of all construction work in the Right-of-Way shall be guaranteed in an amount equal to 130% of the cost estimate (prepared by a licensed contractor, professional engineer, or architect) of the construction work, by either the Franchisee or the Franchisee's contractor performing the actual construction work. The guarantee shall be by performance bond. If Franchisee, in the sole judgment of the City, has a history of corrections or default, Franchisee must provide the full guarantee by assignment of funds. These funds shall guarantee the following: (1) timely completion of construction; (2) construction in compliance with all applicable plans, permits, technical codes, and standards; (3) proper location of the Facilities as specified by the City; (4) restoration of the Rights-of-Way and other City properties affected by the construction; (5) repair and restoration of any damage to public or private property caused by the construction; (6) submission of as-built drawings after completion of construction; and (7) timely payment and satisfaction of all claims, demands, or liens for labor, materials, or services provided in connection with the work that could be asserted against the City or City property. The guarantee must remain in full force until the completion of construction and/or any necessary repairs, including final inspection, corrections, and final approval of the work, recording of all easements, provision of as-built drawings, and the posting of a maintenance guarantee as

described in Section 16.2. Compliance with the performance guarantee requirement of the City's current Design and Construction Standards shall satisfy the provisions of this Section.

16.2 Maintenance Guarantee. Maintenance and the successful operation of the Right-of-Way improvements shall be bonded for a period of at least two (2) years (or other period as required by Bonney Lake Municipal Code, as may be amended) from the date of final construction approval. The bond shall be in an amount to be determined by the City. The minimum maintenance guarantee shall be Five Thousand Dollars (\$5,000.00) or 30% of the original performance construction guarantee as described in Section 16.1, whichever is greater. Franchisee will have thirty (30) days to correct any deficiencies identified by the City. The satisfactory correction of the work may commence a new two-year maintenance period for the improvements as corrected, as determined by the City. The City will initiate collection against the financial guarantee if deficiencies are not satisfactorily addressed by the end of the thirty (30) day response period. Compliance with the maintenance guarantee requirement of the City's current Design and Construction Standards shall satisfy the provisions of this Section 16.2. Original financial guarantee amounts described in Section 16.1 and this Section 16.2 may be reduced one time only before the maintenance period, at the discretion of the City. If an extension to any associated permits are granted, the financial guarantees may be increased based on an updated engineer's cost estimate or as determined by the City. Financial guarantees will be fully released only after all final punch list items are accomplished, final construction approval, and the lapse of the two (2) year maintenance guarantee period with all corrective actions complete and accepted by the City.

16.3 Franchise Bond. Franchisee shall provide City with a bond in the amount of Fifty Thousand Dollars (\$50,000.00) ("Franchise Bond") running or renewable for the term of this Franchise, in a form and substance reasonably acceptable to City. If Franchisee fails to substantially comply with any one or more of the provisions of this Franchise, following written notice and a reasonable opportunity to cure, then there shall be recovered jointly and severally from Franchisee and the bond any actual damages suffered by City as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of Facilities. Franchisee specifically agrees that its failure to comply with the terms of this Section 16.3 will constitute a material breach of this Franchise, subject to the notice and cure provisions of Section 17.2. Franchisee further agrees to replenish the Franchise Bond within thirty (30) days after written notice from the City that the amount of the Franchise Bond is deficient. The amount of the Franchise Bond shall not be construed to limit Franchisee's liability or to limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

16.4 Form of Bonds. All bonds provided to the City under this Section 16 shall be on forms provided by the City and with sureties registered with the Washington State Insurance Commissioner or other financial institutions acceptable to the City.

Section 17. – Remedies to Enforce Compliance.

17.1 Reservation of Rights.

17.1.1 In addition to the remedies provided in this Franchise, each Party reserves the right

to pursue any remedy available at law or in equity to compel or require the other Party and/or its successors and assigns to comply with the terms of this Franchise. The pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a revocation for breach of the conditions of this Franchise.

17.1.2 All rights and remedies provided in this Franchise shall be in addition to and cumulative with any and all other rights and remedies available to either the City or Franchisee. These rights and remedies are not exclusive, and the exercise of one or more rights or remedies may not be deemed a waiver of the right to exercise any other right or remedy at any time. Neither Party intends to waive any other rights, remedies, or obligations as provided by law, equity, or otherwise, and nothing contained in this Franchise shall be construed to effect any such waiver.

17.2 Procedure upon Breach. If either Party violates or fails to comply with any of the provisions of this Franchise or a permit issued as required by Section 3.2, or fails to heed or comply with any notice given under the provisions of this Franchise (the “Defaulting Party”), the other Party (the “Non-defaulting Party”) shall provide the Defaulting Party with written notice specifying with reasonable particularity the nature of the breach and the Defaulting Party shall undertake all commercially reasonable efforts to cure the breach within thirty (30) days of receipt of notification. If the Non-defaulting Party reasonably determines the breach cannot be cured within thirty (30) days, the Non-defaulting Party may specify a longer cure period, and condition the extension of time on the Defaulting Party’s submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty (30) day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Defaulting Party does not comply with the specified conditions, the Non-Defaulting Party may pursue any available remedy at law or in equity. In the event Franchisee is the Defaulting Party, if Franchisee has failed to timely cure any breach, the City, at its sole discretion, may elect to: (1) terminate this Franchise pursuant to Section 2.5; (2) claim liquidated damages of Two Hundred Fifty Dollars (\$250.00) per day against Franchisee (and collect from the Franchise Bond if necessary) as an estimate for damages that the Parties understand will be difficult to calculate in the event of a default; or (3) extend the time to cure the breach if under the circumstances additional time is reasonably required.

Section 18. – Non-Waiver.

18.1 The failure of either Party to insist upon strict performance of any of the covenants and agreements of this Franchise or to exercise any option conferred in any one or more instances shall not be construed to be a waiver or relinquishment of any such covenants, agreements, or option or any other covenants, agreements, or option.

Section 19. – Police Powers and City Regulations.

19.1 Nothing within this Franchise may be deemed to restrict the City’s ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to reasonably control by appropriate regulations, consistent with 47 U.S.C. § 253, the

location, elevation, manner of construction, and maintenance of any Facilities by Franchisee, and Franchisee shall promptly conform with all such regulations, unless compliance would cause Franchisee to violate Applicable Laws. The City reserves the right to promulgate any additional regulations of general applicability as it may find necessary in the exercise of its lawful police powers consistent with 47 U.S.C. § 253. In the event of a conflict between the provisions of this Franchise and any other ordinance(s) enacted under the City's police power authority, the other ordinances(s) shall take precedence over this Franchise.

Section 20. – Acceptance.

20.1 This Franchise may be accepted by Franchisee by its filing with the City Clerk of an unconditional written acceptance, within sixty (60) days from the City's execution of this Franchise, in the form attached as ***Exhibit A***. Failure of Franchisee to so accept this Franchise will constitute a rejection by Franchisee and the rights and privileges granted shall cease. In addition, Franchisee shall file the certificate of insurance and the additional insured endorsements obtained pursuant to Section 14, any construction guarantees and bonds, if applicable, as described in Section 16.

Section 21. – Survival.

21.1 All of the provisions, conditions, and requirements in Sections 3, 4, 5, and 13 of this Franchise shall be in addition to any and all other obligations and liabilities Franchisee may have to the City at common law, by statute, or by contract, and shall survive this Franchise, and any renewals or extensions, to the extent provided. All of the provisions, conditions, regulations, and requirements contained in this Franchise shall further be binding upon the successors, executors, administrators, legal representatives, and assigns of Franchisee and all privileges, as well as all obligations and liabilities of Franchisee shall inure to its successors and assigns equally as if they were specifically mentioned where Franchisee is named.

Section 22. – Assignment and Changes of Ownership or Control.

22.1 **Written Consent.** Except as set forth below, neither Party may assign or transfer its rights or obligations under this Agreement, in whole or part, to a third party, without the written consent of the other Party which shall not be unreasonably withheld, conditioned, or delayed. Any agreed upon assignee will take the place of the assigning Party, and the assigning Party will be released from all of its rights and obligations upon such assignment.

22.1.1 Notwithstanding the foregoing, Franchisee may at any time, on written notice to the City, assign this Franchise or any or all of its rights and obligations under this Franchise:

- (a) to any Affiliate of Franchisee;
- (b) to any successor in interest of Franchisee's business operations in the City in connection with any merger, acquisition, or similar transaction if Franchisee determines after a reasonable investigation that the successor in interest has the resources and ability to fulfill the obligations of this Franchise; or
- (c) to any purchaser of all or substantially all of Franchisee's Facilities in the City if

Franchisee determines after a reasonable investigation that the purchaser has the resources and ability to fulfill the obligations of this Franchise.

The written notice required by this Section shall be at least thirty (30) days prior to the closing of the transaction under subsection (a), and ninety (90) days before the closing of any transaction under subsections (b) and (c). In connection with any proposed transaction under subsections (b) and (c), Franchisee shall cooperate with any requests from the City for any information related to the legal, technical, and/or financial ability of a proposed purchaser or successor in interest to comply with the terms of this Franchise.

22.2 Franchisee Responsibility. Following any assignment of this Franchise to an Affiliate pursuant to Section 22.1.1(a), Franchisee will remain responsible for the Affiliate's performance under the terms of this Franchise.

Section 23. – Eminent Domain.

23.1 The existence of this Franchise shall not preclude the City from acquiring by condemnation in accordance with Applicable Laws, all or a portion of Franchisee's Facilities for the fair market value. In determining the value of Facilities, no value shall be attributed to the right to occupy the area conferred by this Franchise.

Section 24. – Vacation.

24.1 If at any time the City, by ordinance and in accordance with Applicable Laws, vacates all or any portion of the area affected by this Franchise, the City shall not be liable for any damages or loss to the Franchisee by reason of the vacation. The City shall notify Franchisee in writing not less than sixty (60) days before vacating all or any portion of any such area. The City will, if practicable, reserve an easement for Franchisee's Facilities under the same terms and conditions as this Franchise at the location vacated by City, and if not practicable, the City may, after sixty (60) days' written notice to Franchisee, terminate this Franchise with respect to such vacated area.

Section 25. – Notice.

25.1 Any notice or information required or permitted to be given to the Parties under this Franchise shall be sent to the following addresses unless otherwise specified by personal delivery, overnight mail by a nationally recognized courier, or by U.S. certified mail, return receipt requested and shall be effective upon receipt or refusal of delivery:

City: City of Bonney Lake
Attn: Jason Sullivan
21719 96th St. E
Buckley, WA 98321

With a copy to: Inslee Best Doezie & Ryder, P.S.
Attn: Jennifer Robertson
10900 NE 4th Street, Suite 1500
Bellevue, WA 98004

Franchisee: Ezee Fiber Texas, LLC

Telecommunications Franchise – Ezee Fiber Texas, LLC

Page 22

11115325.3 - 370563 - 0047

5959 Corporate Dr.
Houston, TX 77036

With a copy to: Carly Nations
Wireless Policy Group, LLC
carly.nations@wirelesspolicy.com

Section 26. – Compliance with all Applicable Laws.

26.1 Each Party agrees to comply with all Applicable Laws. This Franchise is subject to ordinances of general applicability enacted pursuant to the City’s police powers. Franchisee acknowledges that it shall be solely responsible for compliance with any applicable law or regulation of the Federal Communications Commission (“FCC”) to engage in business associated with use of the Rights-of-Way.

Section 27. – Attorney’s Fees.

27.1 If a suit or other action is instituted in connection with any controversy arising out of this Franchise, each Party shall pay all its legal costs and attorney fees incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; except that nothing in this section shall be construed to limit the City’s right to indemnification under Section 13 of this Franchise.

Section 28. – Licenses, Fees, and Taxes.

28.1 Before constructing any Facilities or providing Services within the City, Franchisee shall obtain a business or utility license from the City, if so required. Franchisee shall pay all applicable taxes on personal property and Facilities owned or placed by Franchisee in the Rights-of-Way and shall pay all applicable license fees, permit fees, and any applicable tax unless documentation of exemption is provided to the City and shall pay utility taxes and license fees properly imposed by the City under this Franchise. However, nothing in this Franchise is intended to alter, amend, modify, or expand the taxes and fees that may lawfully be assessed on Franchisee’s business activities under Applicable Laws.

Section 29. – Miscellaneous.

29.1 Entire Agreement. This Franchise constitutes the entire understanding and agreement between the Parties as to the subject matter herein and no other agreements or understandings, written or otherwise, will be binding upon the Parties upon execution of this Franchise.

29.2 Severability. If any section, sentence, clause, or phrase of this Franchise is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality will not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Franchise unless such invalidity or unconstitutionality materially alters the rights, privileges, duties, or obligations, in which event either Party may request renegotiation of those remaining terms of this Franchise materially affected by the court’s ruling.

29.3 Authorized Signatories. The City and Franchisee respectively represent that their

respective signatories are duly authorized and have full right, power, and authority to execute this Franchise on such Party's behalf.

29.4 Venue. This Franchise is governed by the laws of the State of Washington. The United States District Court for the Western District of Washington, and Pierce County Superior Court have proper venue for any dispute related to this Franchise.

29.5 Section Headings. Section headings are intended solely to facilitate the reading of this Franchise and may not affect the meaning or interpretation of the text within this Franchise.

29.6 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Franchise.

29.7 Enforcement. This Franchise may be enforced at both law and in equity.

[Signatures on Following Page]

DRAFT

IN WITNESS WHEREOF, this Franchise is signed in the name of the City of Bonney Lake, Washington this ____ day of _____, 2025.

CITY OF BONNEY LAKE, WASHINGTON

Terry Carter, Mayor

ATTEST:

Sadie Schaneman, City Clerk

APPROVED AS TO FORM:

Jennifer S. Robertson, City Attorney

DRAFT

EXHIBIT A

STATEMENT OF ACCEPTANCE

EZEE FIBER TEXAS, LLC, for itself, its successors and assigns, accepts, and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached and incorporated by this reference. Ezee Fiber Texas, LLC, declares that it has carefully read the terms and conditions of this Franchise and unconditionally accepts all of the terms and conditions of the Franchise and agrees to abide by such terms and conditions. Ezee Fiber Texas, LLC, has relied upon its own investigation of all relevant facts and it has not been induced to accept this Franchise and it accepts all reasonable risks related to the interpretation of this Franchise.

EZEE FIBER TEXAS, LLC

By: _____

Date: _____

Name: _____

Title: _____



5959 Corporate Dr.
Houston, TX 77036
ezeefiber.com

JULY 25, 2025

Submitted To:
City of Bonney Lake
Jason Sullivan – Public Services Director
21719 96th Street East
Buckley, WA 98321

Re: Ezee Fiber Obtaining a Telecommunications Franchise in the City of Bonney Lake

Dear Mr. Sullivan:

I am writing on behalf of Ezee Fiber Texas, LLC ("Ezee Fiber") to formally submit an application for a franchise agreement to provide telecommunications services within the City of Bonney Lake (the "City"). Ezee Fiber is seeking a franchise to install a new, entirely fiber optic network in portions of the City's rights-of-way.

Description of Proposed Installation: Ezee Fiber proposes to install and maintain 144 to 288 count fiber optic cable within the City's right-of-way. We will utilize underground construction methods, installing new fiber in newly placed conduits. The proposed installation consists solely of fiber optic cable infrastructure and related equipment housed within ground-level cabinets. Our cabinets are typically dimensioned as 62"×59"×34". Core routes connecting cabinets to our backhaul are typically constructed with 2×1.25" HDPE duct with one 288ct SMF28 fiber cable. Branches going deeper into residential streets feeding 1x4 splitters can be 144 or 96 count cables. Cable vaults, typically dimensioned as 24"×36"×36" or smaller, will be used for splice closures and cable slack along core routes. Routes along residential streets for distribution typically use a 1.25" HDPE duct or a 0.75" HDPE duct and one micro 48ct fiber cable that branches out to single fiber cables to connect each house. These drop cables are typically accessible by 10" round boxes buried at every other property line servicing two locations. Ezee Fiber does not plan to install overhead facilities or small wireless deployment devices.

Services to Be Provided: Ezee Fiber will offer symmetrical 10Gbps+ speeds to homes, businesses, governmental and educational entities for both point-to-point connectivity and Internet connectivity. Our consumer internet plans include:

- 2 Gigs - eero Pro 6E Wi-Fi Router; \$89 a month
- 5 Gigs - eero Max 7 Wi-Fi Router; \$99 a month
- 8 Gigs - eero Max 7 Wi-Fi Router; \$119 a month

All plans include equipment and taxes, with no term contract or data caps. Ezee Fiber does not provide cable service or other multi-channel video programming services.



5959 Corporate Dr.
Houston, TX 77036
ezeefiber.com

Service Area: Ezee Fiber intends to build a fiber optic network across the entire City of Bonney Lake for all residents, businesses, schools, government buildings, healthcare facilities, and bandwidth-intensive businesses. Accordingly, we request that the authorized franchise area encompass the entire jurisdiction of the City.

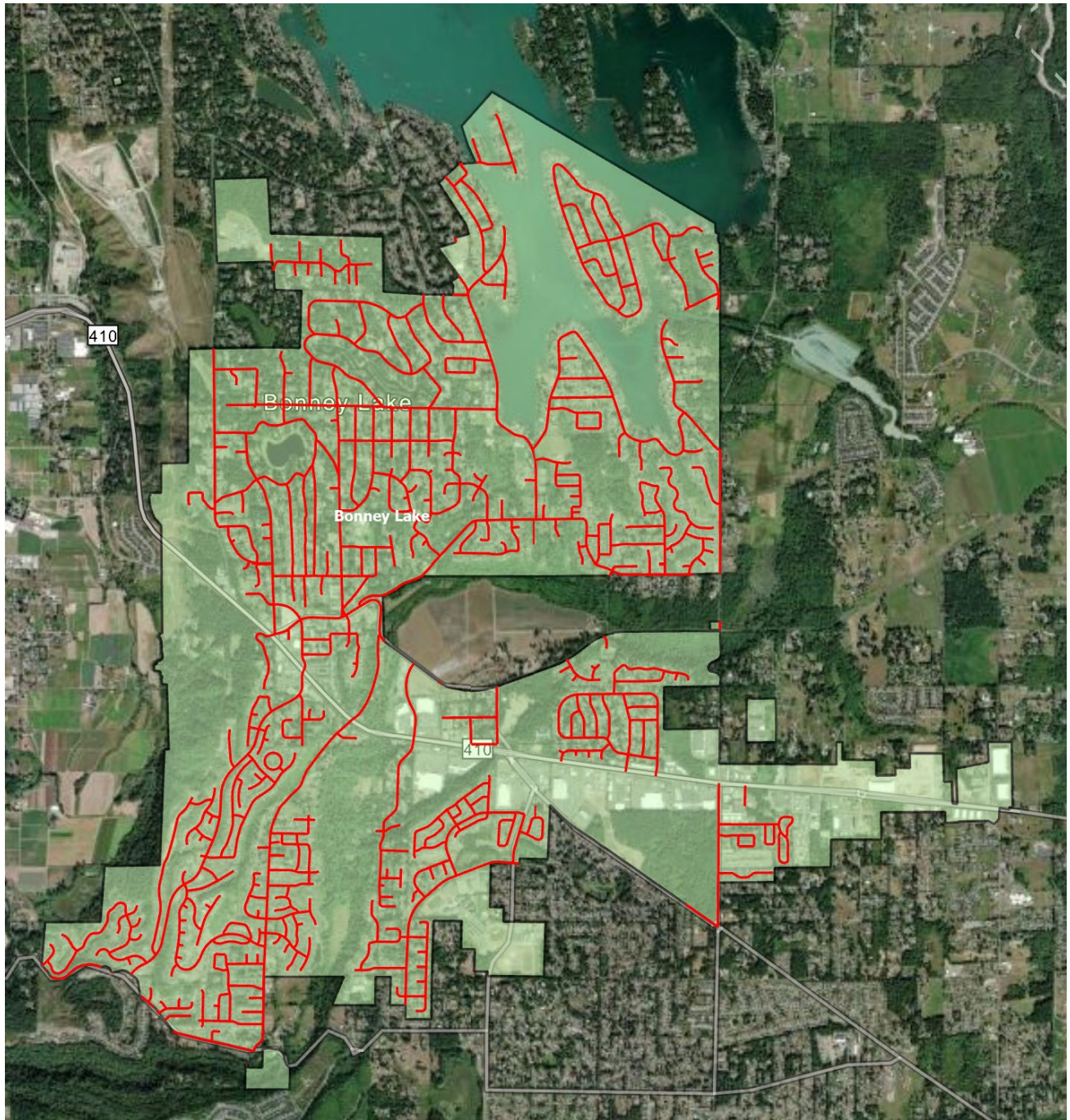
Ezee Fiber looks forward to working with the City's permitting department to finalize construction details. High and low-level design maps will be completed by our engineering and design firm and sent to the City upon completion, typically 3-4 months after the Franchise Agreement is approved and prior to the preferred construction start date. Below is a preliminary map of our build area and routes we intend to build.

If you have any questions or would like any additional information, please do not hesitate to contact us.

We thank you for your assistance and look forward to working with you on this project.

Sincerely,

Garner Duncan
SVP, Government Affairs
Ezee Fiber



**City of Bonney Lake, Washington
City Council Agenda Bill (AB)**

Agenda Bill Number:	AB26-15 -
Agenda Item Type:	Ordinance
Presenter:	Jason Sullivan, Public Services Director
City Strategic Goal Category:	None
Department/Division Submitting:	Public Services Director
Impacted Departments That Received Notification:	Administrative Services

Full Title/Motion: An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Granting A Non-Exclusive Telecommunications Franchise In, Across, Over, Along, Under, Through And Below The Public Rights-Of-Way Of The City Of Bonney Lake To Forged Fiber 37, LLC, A Delaware Limited Liability Company, And Wholly Owned Subsidiary Of AT&T, Inc.; Providing For Severability And Corrections; Requiring Acceptance By The Franchisee Within 30 Days; And Establishing An Effective Date.

Short Background Summary:

AT&T, doing business as Forged Fiber 37, LLC., has signed an agreement to purchase a portion of the fiber business of Lumen Technologies, Inc. and its affiliates (“Lumen”), which includes fiber assets and associated facilities that may be located within the rights-of-way of the City of Bonney Lake. Forged Fiber 37 has requested a new franchise agreement to own, operate and construct fiber optic facilities in the City’s rights-of-way. Forged Fiber 37 intends to build fiber optic cable facilities throughout the City and is therefore asking for city-wide rights under the proposed franchise agreement. Forged Fiber 37 will provide wholesale service only; resellers will provide services to the general public, including residential customers and small businesses. Forged Fiber does not have a scope or schedule for future construction projects at this time.

Consistent with City Council direction, the proposed franchise agreement is only for an initial 5-year term. Under the proposed franchise agreement, Forged Fiber can request that the Mayor approve a renewal of the franchise agreement up to a maximum of two additional 5-year terms.

Budget Explanation:

Committee, Board, Commission, & Hearing Examiner Review

Name Of Committee/Commission/Examiner Meeting: Community Development Committee

Date of Committee/Commission/Examiner Meeting: 1/6/2026

Date of Committee/Commission Public Hearing:

Committee/Commission/Examiner Meeting Decision: CDC moved this forward to the City Council with a do pass recommendation.

Council Action		
Date of Council Workshop	Date of Council Meeting	Date of Council Public Hearing
1/20/2026	2/3/2026	

ORDINANCE NO. D26-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, GRANTING A NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF BONNEY LAKE TO FORGED FIBER 37, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND WHOLLY OWNED SUBSIDIARY OF AT&T, INC.; PROVIDING FOR SEVERABILITY AND CORRECTIONS; REQUIRING ACCEPTANCE BY THE FRANCHISEE WITHIN 30 DAYS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Forged Fiber 37, LLC, a Delaware limited liability company, and wholly owned subsidiary of AT&T, Inc. (hereinafter “Franchisee”) applied to the City for a franchise agreement to provide telecommunications services within the City of Bonney Lake; and

WHEREAS, pursuant to RCW 35A.47.040, the City Council has the authority to grant franchises for telecommunication services in the City’s rights of way; and

WHEREAS, the City Council is willing to approve the Franchisee’s request subject to the terms and conditions in the Proposed Franchise, which both the City Council and the Franchisee reviewed and deemed acceptable; and

WHEREAS, on January 20, 2026, the City Council considered the Proposed Franchise at a regularly Council meeting; and

WHEREAS, on February 3, 2026, the City Council at a regular meeting approved the Proposed Franchise by a majority of the entire city council consistent with the requirements of RCW 35A.47.040; **NOW THEREFORE**,

THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings. The recitals set forth above are hereby adopted as findings in support of this ordinance.

Section 2. Franchise Granted. The City Council approves the Proposed Franchise, as shown in **Exhibit A**, and grants the Franchisee a non-exclusive franchise to provide telecommunication services in, across, over, along, under, through and below the City’s rights of way.

Section 3. Deadline for Acceptance. The rights and privileges granted pursuant to this Ordinance shall not become effective until the Franchisee accepts the terms and

conditions in the Proposed Franchise. Such acceptance shall be filed with the City Clerk within thirty (30) days after the Effective Date (as defined in Section 7 below), and must contain: (a) a true and correct copy of the Proposed Franchise executed by the Franchisee; (b) any required letter of credit or other security instrument required under the Proposed Franchise; (c) evidence of insurance required under the Proposed Franchise; and (d) full payment of any applicable application fees pursuant to BLMC, including any and all attorney's fees incurred in negotiating, reviewing, drafting, and processing this Franchise. Such instrument shall evidence the unconditional acceptance of the terms hereof and a promise to comply with and abide by the provisions, terms and conditions in the Proposed Franchise.

Section 4. Severability. If any section, sentence, clause, or phrase of this Ordinance should be held to be 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 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. Corrections. Upon the approval of the city attorney, the city clerk, and/or the code publisher is authorized to make any necessary technical corrections to this ordinance, including but not limited to the correction of scrivener's/clerk errors, references, ordinance numbering, section/subsection numbers, and any reference thereto, provided that such corrections do not modify the intent of this Ordinance.

Section 7. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

ADOPTED by the City Council of the City of Bonney Lake and attested by the City Clerk in authentication of such passage on this ___ day of _____, 2026.

APPROVED by the Mayor this ___ day of _____, 2026.

Terry Carter, Mayor

AUTHENTICATED:

Sadie A. Schaneman, CMC, City Clerk

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: _____

EXHIBIT A

PROPOSED FRANCHISE

**NON-EXCLUSIVE TELECOMMUNICATIONS FRANCHISE
WITH FORGED FIBER 37, LLC**

THIS TELECOMMUNICATIONS FRANCHISE (this “**Franchise**”) is entered into on _____, 2025, by and between the City of Bonney Lake, a municipal corporation (“**City**”) and Forged Fiber 37, LLC, a Delaware limited liability company, and wholly owned subsidiary of AT&T, Inc. (“**Franchisee**”).

Section 1. – Definitions. In addition to terms otherwise defined herein, the following definitions shall apply generally to the provisions of this Franchise.

- 1.1 “**Affiliate**” means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Franchisee.
- 1.2 “**Applicable Laws**” means any local, federal, or state statute, law, regulation, or other legal authority governing any of the matters addressed in this Franchise, as all now exist or as later amended or superseded.
- 1.3 “**City**” means the City of Bonney Lake, Washington, a Washington municipal corporation.
- 1.4 “**Control**” means, with respect to: (i) a U.S. corporation, the ownership, directly or indirectly, of 50% or more of the voting power to elect directors thereof; or (ii) a non-U.S. corporation, if the voting power to elect directors thereof is less than 50%, the maximum amount allowed by Applicable Laws; and (iii) any other Person, 50% or more ownership interest in this Person, or the power to direct the management of such Person.
- 1.5 “**Emergency Situation**” means a condition posing an imminent threat to property, life, health, or safety of any Person or entity.
- 1.6 “**Facilities**” or “**Network**” means one or more elements of Franchisee’s fiber network, with all necessary underground fiber optic cables, lines, wires, or strands and associated appurtenances; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; vaults; and other similar facilities.
- 1.7 “**Force Majeure Event**” means natural disasters, civil disturbances, work stoppages or labor disputes, power outages, telephone network outages, and severe or unusual weather conditions which have a direct and substantial impact on the Franchisee’s ability to provide Services in the City and which was not caused and could not have been avoided by the Franchisee which used its best efforts in its operations to avoid such results.
- 1.8 “**Franchisee**” means Forged Fiber 37, LLC, a Delaware limited liability company.
- 1.9 “**Hazardous Substances**” means any substance or material that is regulated by any current or future federal, state, or local statutes, regulations, ordinances, and rules relating to: the emission, discharge, release, or threatened release of any hazardous substance into the air, surface water, groundwater, or land; the manufacturing, processing, use, generation, treatment, storage, disposal,

transportation, handling, removal, remediation, or investigation of a hazardous material; and the protection of human health, safety, or the indoor or outdoor environment, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 5101, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601, et seq.; the Clean Water Act, 33 U.S.C. §§ 1251, et seq.; the Clean Air Act, 42 U.S.C. §§ 7401, et seq.; the Occupational Safety and Health Act, 29 U.S.C. §§ 651, et seq.; all applicable environmental statutes of the State of Washington; and all other federal, state, or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders, or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material, as now or at any time hereafter in effect.

1.10 **“Mayor”** means the Mayor or Mayor’s designee.

1.11 **“Parties”** (singular **“Party”**) refers to both the City and Franchisee.

1.12 **“Person”** means any natural person, or public or private legal entity of any kind.

1.13 **“Public Improvement”** means the establishment and improvement of new Rights-of-Way, widening or improvement of existing Rights-of-Way or both, freeway construction, change or establishment of street grade, the modification, relocation, or removal of City electrical infrastructure, including utility poles, or the construction of any public infrastructure by any governmental agency acting in a governmental capacity as approved by the City, or as otherwise necessary for the operations of the City or other governmental entity.

1.14 **“Rights-of-Way”** (singular **“Right-of-Way”**) as used in this Franchise, means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle, pathways, spaces, or other public right-of-way, and over which the City has authority to grant permits, licenses, or franchises for use thereof, or has regulatory authority thereover. Right-of-Way does not include railroad right-of-way, airports, harbor areas, buildings, parks, poles, conduits, open spaces, nature trails, poles, dedicated but un-opened right-of-way, environmentally sensitive areas and any land, facilities, or property owned, maintained, or leased by the City in its governmental capacity, proprietary capacity, or as an operator of a utility.

1.15 **“Services”** (singular **“Service”**) means wholesale fiber transport services, with Franchisee operating as a service provider or telecommunications service as defined in RCW 35.99.010. Services do not include cable services as defined in 47 U.S.C. § 522(6) or wireless communication services.

Section 2. – Franchise Granted.

2.1 **Franchise and Term.** Pursuant to RCW 35A.47.040, the City hereby grants to Franchisee, its successors, legal representatives, and assigns, subject to the terms and conditions set forth herein, a non-exclusive Franchise for a period of five (5) years, beginning on the effective date of the ordinance authorizing this Franchise (the “Effective Date”).

2.1.1. **Renewal Option of Term.** The Franchisee may renew this Franchise for two (2)

additional five (5) year periods upon submission and approval of the application for such renewal. The application shall be reviewed for approval by the Mayor. Approval of any materials submitted by the Franchisee for a previous application may be considered by the City in reviewing a current application, and the Franchisee shall only submit those materials deemed necessary by the City to address changes in the Franchisee's Facilities or Services, or to reflect specific reporting periods mandated by the City Code.

2.1.2. Failure to Renew Franchise – Automatic Extension. If the Parties fail to formally renew this Franchise prior to the expiration of its term or any renewal thereof, the Franchise automatically continues month-to-month until renewed or either Party gives written notice at least one hundred and eighty (180) days in advance of intent not to renew the Franchise.

2.2 Franchise Purpose. This Franchise grants Franchisee the right, privilege, and authority to construct, operate, maintain, replace, relocate, restore, upgrade, remove, excavate, acquire, sell, lease, and use all necessary Facilities for a fiber optic infrastructure network in, under, on, across, over, through, along, or below the public Rights-of-Way located in the City, and any other areas designated herein or added to the corporate limits of the City during the term of this Franchise (the “Franchise Area”) for the purpose of providing the Services.

2.3 Limited Authorization.

2.3.1 The authority granted by this Franchise is a limited, non-exclusive authorization to occupy and use the City’s Rights-of-Way and does not authorize Franchisee to use any property other than the Rights-of-Way as agreed herein. Nothing within this Franchise shall be construed to grant or convey any right, title, or interest in the Rights-of-Way of the City to Franchisee other than for the purpose of providing the Services. Franchisee’s use of any other City property, including City-owned or leased property, or poles, and conduits, must be governed under a separate agreement.

2.3.2 This Franchise shall not prevent the City from granting other franchises within its Rights-of-Way, nor shall it prevent or prohibit the City from using any Rights-of-Way, or affect its jurisdiction over any Rights-of-Way or any part of a Right-of-Way. The City retains power to make all necessary changes, relocations, repairs, maintenance, establishment, improvements, and dedication of Rights-of-Way as it deems fit, including the dedication, establishment, maintenance, and improvement of all new Rights-of-Way, thoroughfares, and other public properties of every type and description.

2.3.3 The City also reserves the right to amend this Franchise to conform to any hereafter enacted, amended, or adopted Applicable Laws relating to the public health, safety, and welfare, or relating to roadway regulation, upon providing Franchisee with thirty (30) days’ written notice of its action setting forth the full text of the amendment and identifying the Applicable Laws. This amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, Franchisee requests in writing to negotiate the terms of the amendment. If the Parties do not reach agreement as to the amendment terms within thirty (30) days of the request to negotiate, the City may enact the proposed amendment by incorporating Franchisee’s concerns to the maximum extent that the City, in its sole discretion, deems

reasonable.

2.4 Authorized Services.

2.4.1 Franchisee represents that it intends to provide the following services within the City: telecommunications services as defined in RCW 35.99.010, including wholesale fiber transport services, to residents and businesses within the City (the “Customers”). Franchisee may not offer cable services as that term is defined in 47 U.S.C. § 522(6). This Franchise does not authorize any wireless communications services.

2.4.2 Franchisee is authorized without prior City approval to offer or provide capacity or bandwidth, leased fiber or leased conduits, or any other Services set forth in this Section 2.4 to its Customers consistent with this Franchise provided:

- a. Franchisee at all times retains exclusive control over its Facilities and Services; remains responsible for constructing, installing, and maintaining its Facilities pursuant to the terms and conditions of this Franchise; and is solely responsible for providing and maintaining Services to its Customers;
- b. Franchisee may not grant rights to any Customer or lessee that are greater than any rights Franchisee has pursuant to this Franchise;
- c. Such Customer or lessee will not be construed to be a third-party beneficiary under this Franchise; and
- d. No Customer or lessee that accesses Franchisee’s Facilities within the City limits may use the Facilities or Services for any purpose not authorized by this Franchise unless that Customer has a franchise with the City. Then, the Customer may use Franchisee’s Facilities or Services consistent with the terms of its franchise.

2.5 Termination.

2.5.1 Termination by City. The City may terminate this Franchise if Franchisee is in material breach of the Franchise and has failed to cure the breach within the applicable notice and cure period as specified in Section 17. No termination under this subsection will be effective until the applicable notice and cure period has expired. Additionally, if Franchisee fails to apply for any permits to install Facilities within two (2) years of the Effective Date of this Franchise, the City may terminate this Franchise after providing Franchisee with written notice ninety (90) days in advance of termination.

2.5.2 Termination by Franchisee. Franchisee may terminate this Agreement for convenience upon written notice provided to the City at least one hundred and eighty (180) days in advance of termination.

Section 3. – Work in the Rights-of-Way.

3.1 Location of Facilities. Franchisee may locate its Facilities within the Franchise Area consistent with the City’s Design and Construction Standards and subject to the City’s applicable permit requirements.

3.2 Permits Required. Franchisee shall not commence any work within any Rights-of-Way without first obtaining all necessary permits as required by Applicable Laws. Franchisee shall pay the standard permit fee, and all lawful processing, field marking, engineering, and inspection fees associated with the issuance of permits by the City.

3.3 Work Requirements. During any period of relocation, construction, or maintenance, all work performed by Franchisee or its contractors shall be accomplished in a safe and workmanlike manner and only after obtaining permits or other authorization pursuant to Section 3.2 and this Section 3.3. Franchisee shall minimize interference with the free passage of traffic and the free use of adjoining property, whether public or private. Franchisee shall at all times post and maintain proper traffic control to warn and direct the road users, consistent with the requirements of Applicable Laws. Traffic control devices include but are not limited to barricades, traffic cones, traffic drums, tubular markers, flags, certified flaggers, lights, flares, and other measures as required for the safety of all members of the general public. Franchisee shall also comply with all applicable safety regulations during such period of construction as required by all Applicable Laws, including, without limitation, RCW 39.04.180 for the requirement of trench safety systems for trench excavations.

3.4 Work of Contractors and Subcontractors. Franchisee's contractors and subcontractors shall be licensed and bonded in accordance with Applicable Laws. Work by contractors and subcontractors is subject to the same restrictions, limitations, and conditions as if the work were performed by Franchisee. Franchisee shall be responsible for all work performed by its contractors and subcontractors and others performing work on its behalf as if the work were performed by Franchisee and shall ensure that all such work is performed in compliance with this Franchise and Applicable Laws.

3.5 Maintenance of Facilities. Franchisee shall, at its own expense, maintain its Facilities in a safe condition, in good repair, and in a manner suitable to the City. Additionally, Franchisee shall keep its Facilities free of debris and anything of a dangerous, noxious, or offensive nature or which would create a hazard or undue vibration, heat, noise, or any interference with City services.

3.6 Shared Excavation. If either the City or Franchisee plans to make excavations in any area covered by this Franchise and as described in this Section 3.6, the Party planning the excavation shall endeavor to afford the other an opportunity to share the excavation, PROVIDED THAT:

- a. The joint use shall not unreasonably delay the work of the Party causing the excavation to be made;
- b. The joint use shall be arranged and accomplished on terms and conditions satisfactory to both Parties; and
- c. The initiating Party may deny a request for constructability and/or safety reasons.

3.7 Coordination of Construction.

3.7.1 Except for Emergency Situations, Franchisee shall give advance written notice of intended construction to property owners and/or residents within one hundred (100) feet of the construction area as follows: if construction is ground disturbing, at least seven (7) days' notice

shall be required; otherwise, forty-eight (48) hours' notice shall be required. The notice shall contain the dates, contact number, nature, and location of the work to be performed; a door hanger is permissible. At least twenty-four (24) hours before entering private property or streets or public easements adjacent to or on such private property, Franchisee shall physically post a notice on the property indicating the nature and location of the work to be performed; a door hanger is permissible. Nothing in this Franchise gives the Franchisee the right to enter onto private property without the permission of the private property owner.

3.7.2 Franchisee shall make a good faith effort to comply with the private property owner/resident's preferences, if any, on location or placement of underground installations, consistent with sound engineering practices. Following performance of the work, Franchisee shall restore the private property as nearly as possible to its condition prior to construction, except for any change in condition not caused by Franchisee. Any disturbance of landscaping, fencing, or other improvements on private property caused by Franchisee's work shall, at the sole expense of Franchisee, be promptly repaired and restored to the reasonable satisfaction of the property owner/resident.

3.7.3 Upon prior written notice from the City, Franchisee shall meet with the City and other franchise holders to schedule and coordinate construction in the Rights-of-Way and on City property where authorized. To minimize public inconvenience, disruption or damage, the Franchisee shall coordinate all construction locations, activities, and schedules as directed by the City.

3.8 One Call Locator Service. Before doing any work in the Rights-of-Way, the Franchisee shall follow established procedures, including contacting the Utility Notification Center in Washington and comply with all Applicable Laws regarding the One Call Locator Service pursuant to Chapter 19.122 RCW. Neither the City nor its contractors shall be liable for any damages to Franchisee's Facilities or for interruptions in service to Franchisee's Customers that are a direct result of Franchisee's failure to accurately locate its Facilities within the prescribed time limits and guidelines established by the One Call Locator Service regardless of whether the City issued a permit.

3.9 Restoration and Repair of Rights-of Way.

3.9.1 Franchisee shall repair any damage to the Rights-of-Way, and the property of the City or any third party, after installation, construction, relocation, maintenance, or repair of its Facilities or after abandonment approved pursuant to Section 15, within thirty (30) days following the date of any of these activities, at Franchisee's sole cost and expense. Franchisee shall restore the Rights-of-Way and the surface of the Rights-of-Way to the same or better condition as it was immediately prior to any installation, construction, relocation, maintenance, or repair by Franchisee. Franchisee shall not be responsible for any changes to the Rights-of-Way not caused by Franchisee or anyone doing work for Franchisee.

3.9.2 Franchisee agrees to complete all restoration work to the Franchise Area or other affected area at its sole cost and expense and according to the time and terms specified in the construction permit issued by the City or other agreement. Franchisee also agrees to repair any

damage caused by work to the Franchise Area within fourteen (14) days unless otherwise approved by the Mayor. All work by Franchisee pursuant to this Franchise shall be performed in accordance with applicable City standards and shall be warranted. The warranty for Franchisee's work in a specified location will end if the (1) City completes a Public Improvement modifying or altering the pavement surface, including, but not limited to overlays, slurry seals, and chip seals; or (2) the pavement surface has reached the end of the industry recognized useful life of the type of pavement surface installed by Franchisee.

3.9.3 If conditions (e.g., weather) make the complete restoration required under this Section 3 impracticable, Franchisee shall temporarily restore the affected Right-of-Way or property at its sole cost and expense to the City's satisfaction. Franchisee shall promptly undertake and complete the required permanent restoration as soon as conditions no longer make permanent restoration impracticable.

3.9.4 If Franchisee does not repair a Right-of-Way or an improvement in or to a Right-of-Way within the time prescribed by this Section 3, the City may repair the damage and shall be reimbursed its actual costs within sixty (60) days of submitting an itemized invoice to Franchisee in accordance with the provisions of Section 11. The City may also bill Franchisee for any expenses associated with the inspection of this repair work and for costs incurred by the City for delays impacting Public Improvements.

3.10 Survey Monuments. No survey monument may be removed (or replaced) without a professional land surveyor obtaining a permit in advance from the Washington State Department of Natural Resources and submitting a copy of the approved permit to the City. Franchisee shall restore all concrete encased monuments that will be disturbed or displaced by such work to City standards and specifications. The Mayor shall have final approval of the condition of the Rights-of-Way after repair or restoration by the Franchisee.

3.11 Graffiti Removal. Franchisee shall remove all graffiti on any of its Facilities no later than fourteen (14) days from the date Franchisee receives written notice from the City or is otherwise made aware of the graffiti. Facilities installed above ground, such as cabinets, shall have their exterior surface wrapped with an anti-graffiti gloss overlaminant.

Section 4. – Relocation of Facilities.

4.1 Relocation Requirement.

4.1.1 Franchisee agrees to protect, support, temporarily disconnect and then reconnect, relocate, or remove from any Rights-of-Way any of its Facilities when required by the City, in its sole discretion, for Public Improvement.

4.1.2 If the City's request for relocation arises from a Public Improvement, in which Facilities must be either replaced, relocated, or removed, then Franchisee shall promptly relocate or remove its Facilities at its sole cost and expense, subject to the procedure in Section 4.3. Franchisee acknowledges and agrees that the placement of Facilities on third party-owned or City owned structures does not convey an ownership interest in these structures.

4.2 Design Locates. To facilitate the design of City street and Right-of-Way improvements,

upon written request of the City, or a third party performing work in the Right-of-Way, Franchisee shall, at its sole cost and expense, locate, and if determined necessary by the City, excavate, and/or survey its Facilities so that as the Facilities' location may be taken into account in the design of the improvements. The decision as to whether any Facilities need to be relocated to accommodate the Public Improvement shall be made by the City, in its sole discretion. The Franchisee shall respond to the City's request for excavation and/or survey within thirty (30) days.

4.3 Notice and Relocation Procedure. If the City determines a Public Improvement necessitates the relocation of Franchisee's existing Facilities, the City shall:

a. At least ninety (90) days before commencing the Public Improvement, provide Franchisee with written notice requiring such relocation and a date by which relocation must be complete; except that in the event of an Emergency Situation, the City shall give Franchisee written notice as soon as practicable; and

b. At least ninety (90) days before commencing the Public Improvement, provide Franchisee with copies of pertinent portions of the plans and specifications for the improvement project and a proposed location for Franchisee's Facilities so that Franchisee may relocate its Facilities in other City Rights-of-Way in order to accommodate such improvement project; and

c. After receipt of this notice and such plans and specifications, Franchisee shall complete relocation of its Facilities by the date established in accordance with this Section 4.3 at no charge or expense to the City, except as otherwise provided by law. Relocation shall be accomplished in such a manner as to accommodate the Public Improvement.

4.4 Alternative Arrangements. The Franchisee may make its own appropriate arrangements in response to a request for relocation of its Facilities from a Person or entity other than the City, so long as any improvements being constructed are not or will not become City-owned, operated or maintained; except that any such arrangements shall not delay a Public Improvement.

4.5 Public Improvement Delay Claims. Franchisee shall be solely responsible for the out-of-pocket costs incurred by the City for delays in a Public Improvement to the extent the delay is caused by or arises out of Franchisee's failure to comply with the final schedule for the relocation (other than as a result of a Force Majeure Event or causes or conditions caused by the acts or omissions of the City or any third party unrelated to Franchisee; Franchisee vendors and contractors shall not be considered unrelated third parties). The out-of-pocket costs may include, but are not limited to, payment to the City's contractors and/or consultants for increased costs and associated court costs, interest, and reasonable attorneys' fees incurred by the City to the extent directly attributable to Franchisee's caused delay in the Public Improvement. In addition to recovery of the City's actual costs, the failure of Franchisee to timely remove its facilities by the deadline provided by the City shall result in liquidated damages in the amount of \$250 per day as set forth in Section 17.2. Franchisee shall pay all liquidated damages due no later than thirty (30) days after the date that the City invoices the same. Liquidated damages hereunder are in addition to any other penalties that may be imposed under other agreements between the Parties.

4.6 Moving of Buildings or Other Objects. Franchisee shall, on the request of any private

individual or private entity holding a valid permit issued by a governmental authority, temporarily remove, raise, or lower its Facilities to permit the moving of buildings or other

objects. The expense of the temporary removal, raising, or lowering of Facilities shall be at the expense of the requestor if the requester is not performing a Public Improvement, which is determined by the City in its sole discretion.

4.7 City's Costs. If Franchisee fails, neglects, or refuses to remove or relocate its Facilities as directed by the City following the procedures outlined in this Section 4, the City may perform this work or cause it to be done, and the Franchisee shall pay the City's costs in accordance with Section 11.

Section 5. – Undergrounding of Facilities.

5.1 Installation. Franchisee's Facilities shall be installed underground, including in those areas where existing fiber, telephone, cable, or electric services are underground at the time of Network construction. Franchisee shall also underground its Facilities in all new developments and subdivisions and in any development or subdivision where utilities are currently underground.

5.2 Utility Trench Access. Franchisee may be provided reasonable access to open utility trenches constructed as part of a Public Improvement, so long as this access does not interfere with the City's placement of utilities or increase the City's costs. Franchisee shall pay the City's actual costs of providing Franchisee access to an open trench, including without limitation the pro rata share of the costs of access to an open trench and any costs associated with the delay of the completion of the project. Franchisee shall reimburse the City in accordance with the provisions of Section 11.

5.3 Removal of Fiber. Franchisee shall not remove any underground cable or conduit that requires trenching or other opening of the Rights-of-Way along the extension of cable to be removed without a permit as may be required by Applicable Laws.

Section 6. – Information, Inventory, and Records.

6.1 Information Request.

6.1.1 Franchisee shall supply and maintain, at no cost to the City, any information reasonably requested by the City to coordinate its functions with the Franchisee's activities and fulfill any municipal functions under Applicable Laws. This required information may include, but is not limited to, any installation inventory, location of existing or planned Facilities, maps, plans, operational data, and as-built drawings of Franchisee's Facilities in the City. Franchisee shall warrant the accuracy of all information provided to the City.

6.1.2 Within thirty (30) days of a written request from the Mayor, but no more than once annually, the Franchisee shall furnish the City with information sufficient to demonstrate: 1) that the Franchisee has complied with all applicable requirements of this Franchise; and 2) that all utility taxes due to the City in connection with the Franchisee's Services and Facilities have been properly collected and paid by the Franchisee.

6.2 Current Inventory. Franchisee shall maintain a current inventory of Facilities throughout

the Term of this Franchise. Franchisee shall provide a copy of the inventory report within sixty (60) days of a reasonable request by the City. The inventory report shall include a route map of those basic portions of the fiber system that are located within the Right-of-Way and be in a digital format and the location of the Facilities, including the depth below the finished surface. Franchisee shall cooperate with the City to furnish this information in an electronic mapping format compatible with the current City electronic mapping format.

6.3 Inspection. All books, records, maps, and other documents maintained by Franchisee with respect to its Facilities within the Rights-of-Way shall be made available for inspection by the City at reasonable times and intervals; except that nothing in this Section 6.3 shall be construed to require Franchisee to violate Applicable Laws regarding customer privacy, nor shall this Section 6.3 be construed to require Franchisee to disclose proprietary or confidential information without adequate safeguards for its confidential or proprietary nature. Unless otherwise permitted or required by Applicable Laws, nothing in this Section 6.3 shall be construed as permission to withhold relevant customer data from the City that the City requests in conjunction with a tax audit or review; except that Franchisee may redact identifying information such as names, street addresses (excluding City and zip code), Social Security Numbers, or Employer Identification Numbers related to any confidentiality agreements Franchisee has with third parties.

6.4 Public Records Act. Franchisee acknowledges that information submitted to the City is subject to the Washington Public Records Act, Chapter 42.56 RCW, and is open to public inspection, subject to any exceptions permitted by Applicable Laws.

6.4.1 Franchisee may identify documents submitted to the City that Franchisee believes are non-disclosable, such as trade secrets. Franchisee shall be responsible for clearly and conspicuously identifying the work as confidential or proprietary and shall provide a brief written explanation as to why the information is confidential and how it may be treated as such under Applicable Laws.

6.4.2 If the City receives a public records request under Chapter 42.56 RCW or similar law for the disclosure of the documents or any part of the documents Franchisee has designated as confidential, trade secret, or proprietary, the City shall provide Franchisee with written notice of the request, including a copy of the request before disclosure so that Franchisee can take appropriate steps to protect its interests. Nothing in this Section 6.4 prohibits the City from complying with Chapter 42.56 RCW or any other Applicable Laws or court order requiring the release of public records, and the City shall not be liable to Franchisee for compliance with any law or court order requiring the release of public records. The City will not assert an exemption from disclosure or production on Franchisee's behalf.

6.4.3 The City shall comply with any injunction or court order obtained by Franchisee that prohibits the disclosure of any such confidential records. If a higher court overturns an injunction or court order and the higher court action is or has become final and non-appealable, Franchisee shall reimburse the City for any fines or penalties imposed for failure to disclose these records within forty-five (45) days of a request from the City, unless additional time is reasonably necessary under the circumstances and is agreed to by the Parties.

6.5 Annual Audit. On an annual basis, upon thirty (30) days' written notice, the City shall have the right to conduct an independent audit of Franchisee's records reasonably related to the administration or enforcement of this Franchise, in accordance with generally accepted accounting practices and any standards adopted by the Governmental Accounting Standards Board. If the audit shows that tax or fee payments have been underpaid by 3% or more, Franchisee shall pay the total cost of the audit.

Section 7. – Unauthorized Facilities.

7.1 Any Facilities installed in the City Right-of-Way that are not authorized under this Franchise or other required City Approval (“Unauthorized Facilities”) will be subject to the payment of an Unauthorized Facilities charge by Franchisee. City shall provide written notice to Franchisee of any Unauthorized Facilities identified by City staff and Franchisee shall have thirty (30) days thereafter in which to establish that this installation was authorized or obtain the applicable permit. Failure to establish that the installation is authorized will result in the imposition of an Unauthorized Facilities charge in the amount of One Thousand Dollars (\$1,000.00) per Unauthorized Facility per day starting on the thirty-first (31st) day following notice. Franchisee may submit an application to the City under this Franchise for approval of the Unauthorized Facilities. If the application for the Unauthorized Facilities is denied, Franchisee shall remove the Unauthorized Facilities from the City’s Right-of-Way within thirty (30) days after the expiration of all appeal periods for such denial. The City shall not refund any Unauthorized Facilities charges unless Franchisee is successful in an appeal. This Franchise remedy is in addition to any other remedy available to the City at law or equity.

Section 8. – Safety Requirements.

8.1 Safe Conditions. Franchisee shall at all times, at its own expense, maintain its Facilities in, over, under, and upon the Rights-of-Way in a safe condition, in good repair, and in a manner suitable to the City. Additionally, Franchisee shall keep its Facilities free of debris and anything of a dangerous, noxious, or offensive nature or which would create a hazard or undue vibration, heat, noise, or any interference with City services. Upon reasonable notice to Franchisee, the City reserves the general right to inspect the Facilities to evaluate if they are being maintained in a safe condition. If an unsafe condition or a violation of this Section 8.1 becomes known to the City, the City agrees to give Franchisee written notice of the condition and afford Franchisee a reasonable opportunity to repair the condition. If Franchisee fails to start to make the necessary repairs and alterations within a reasonable time frame specified in the notice (and pursue the cure to completion), then the City may make the repairs or contract for them to be made. All costs, including but not limited to administrative costs, consultant costs, and attorneys’ fees, incurred by the City in repairing any unsafe conditions shall be borne by Franchisee and reimbursed to the City.

8.2 Additional Safety Standards. Additional safety standards include:

- a. Franchisee shall maintain all equipment lines and Facilities in an orderly manner, including, but not limited to, the removal of all bundles of unused cable.
- b. All installations of equipment, lines, and ancillary Facilities shall be installed in

accordance with industry-standard engineering practices and shall comply with all federal, State, and local regulations, ordinances, and laws.

- c. The Franchisee shall protect any opening or obstruction in the Rights-of-Way or other public places made by Franchisee in the course of its operations with adequate barriers, fences, or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly marked and visible at night.

8.3 Hazardous Substances. Franchisee shall not introduce or use any Hazardous Substances in violation of any Applicable Laws, nor shall Franchisee allow any of its agents, contractors, or any Person under its control to do the same. Franchisee will be solely responsible for and will defend, indemnify, and hold the City, its officers, officials, employees, agents, and volunteers harmless from and against any claims, costs, and liabilities including reasonable attorney fees and costs, arising out of or in connection with the cleanup or restoration of the property to the extent caused by Franchisee's use, storage, or disposal of Hazardous Substances, whether or not intentional, and the use, storage, or disposal of such substances by Franchisee's agents, contractors, or other Persons acting under Franchisee's control, whether or not intentional. Franchisee shall have only that responsibility or liability for managing, monitoring, or abating a hazardous condition that it may have under state or federal law and this Franchise shall not be interpreted to expand Franchisee's legal obligations relating to any pre-existing Hazardous Substances undisturbed by Franchisee.

Section 9. – Provision of Conduit.

9.1 Except in Emergency Situations, Franchisee shall provide the Mayor with at least thirty (30) days' advance written notice of any construction, relocation, or placement of ducts or conduits in the Rights-of-Way and provide the City an opportunity to request that Franchisee provide the City with additional duct or conduit, and related structures necessary to access the conduit, pursuant to RCW 35.99.070, in one or more of the locations where Franchisee constructs, installs, or relocates Facilities underground. If so requested, the conduit shall be provided at Franchisee's incremental cost and per the terms of a separate agreement. Franchisee shall install a locator wire and cap off all conduit ends. Conduit ends shall be marked on any as-built plans and maps requested pursuant to Section 6. Any conduit delivered to the City pursuant to this Section 9 will become property of the City, and Franchisee will have no ongoing maintenance, liability, or other obligations to the City or any third party with respect to the conduit. The City shall make any request for conduit per this Section 9 request in writing before issuance of the applicable permit to Franchisee.

Section 10. – Emergency Situations.

10.1 Immediate Action Required. In the event of any Emergency Situation in which any of Franchisee's Facilities located in or under any street endangers the property, life, health, or safety of any Person, entity, or the City, or if Franchisee's construction area is otherwise in such a condition as to immediately endanger the property, life, health, or safety of any Person, entity, or the City, Franchisee shall immediately repair its Facilities and cure or remedy the dangerous conditions for the protection of property, life, health, or safety of any Person, entity or the City,

without first applying for and obtaining a permit as required by this Franchise. The Franchisee shall apply for any necessary permits on the next day Bonney Lake City Hall is open for business.

10.2 Lateral Support. Whenever the construction, installation, or excavation of Facilities authorized by this Franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, an adjoining public place, street utilities, City property, Rights-of-Way, or private property (collectively “Endangered Property”) or endangers the public, the Mayor may direct Franchisee, at Franchisee’s own expense, to take reasonable action to protect the Endangered Property or the public within a prescribed time. If Franchisee fails or refuses to promptly take the actions directed by the City, or fails to fully comply with the directions, or if an Emergency Situation exists that requires immediate action before the City can timely contact Franchisee to request Franchisee effect the immediate repair, the City may enter upon the Endangered Property and take such reasonable actions as are necessary to protect the Endangered Property or the public. Franchisee shall be liable to the City for the costs of any such repairs in accordance with the provisions of Section 11.

10.3 Reimbursement. Franchisee shall promptly reimburse the City in accordance with the provisions of Section 11 for any and all costs the City reasonably incurs in response to any Emergency Situation involving Franchisee’s Facilities, to the extent this emergency is not the fault of the City. The City agrees to simultaneously seek reimbursement from any other franchisee or permit holder who caused or contributed to the Emergency Situation.

Section 11. – Recovery of Costs.

11.1 Administrative and Other Costs. Franchisee shall be subject to a \$5,000 administrative fee as a fee deposit for the payment of costs associated with the preparation, processing, and approval of this Franchise Agreement, including wages, benefits, overhead expenses, meetings, negotiations, and other functions related to the approval. In addition, the Franchisee shall be responsible for reimbursement of all of the City’s attorney’s fees for this Agreement. The Franchisee shall also pay the cost of publication for this Franchise. To the extent that the fee deposit is not otherwise exhausted, the attorney’s fees shall be reimbursed from the fee deposit. However, to the extent that the City’s costs, including but not limited to attorney’s fees, exceeds the fee deposit, Franchisee agrees to pay any additional costs as set forth in this section. The fee deposit excludes normal permit fees required for work in the Right-of-Way. Payment of all the City’s expenses as set forth in this Section shall be made in full prior to Franchise approval. No construction permits shall be issued for the installation of Facilities authorized until the City has received the reimbursements as required by this Section.

11.2 Additional Costs. Franchisee shall further be subject to all permit fees associated with activities undertaken through the authority granted in this Franchise or under the laws of the City. Where the City incurs costs and expenses for review, inspection, or supervision of activities, including but not limited to reasonable fees associated with attorneys, consultants, City Staff and City Attorney time, undertaken through the authority granted in this Franchise or any ordinances relating to the subject for which a permit fee is not established, Franchisee shall pay these costs and expenses directly to the City in accordance with the provisions of Section 11.4.

11.3 City Project Costs. Franchisee shall reimburse the City for Franchisee's proportionate share of all actual, identified expenses incurred by the City in planning, constructing, installing, repairing, altering, or maintaining any City facility as the result of the presence of Franchisee's Facilities in the Rights-of-Way. These costs and expenses shall include but not be limited to Franchisee's proportionate cost of City personnel assigned to oversee or engage in any work in the Rights-of-Way as the result of the presence of Franchisee's Facilities in the Rights-of-Way. These costs and expenses shall also include Franchisee's proportionate share of any time spent reviewing construction plans in order to either accomplish the relocation of Franchisee's Facilities or the routing or rerouting of any utilities so as not to interfere with Franchisee's Facilities.

11.4 Payment of Costs. The time of City employees shall be charged at their respective rate of salary, including overtime if applicable, plus benefits and reasonable overhead. Any other costs will be billed proportionately on an actual cost basis. All billings will be itemized so as to specifically identify the costs and expenses for each project for which the City claims reimbursement. A charge for the actual costs incurred in preparing the billing may also be included in the billing. Franchisee shall reimburse the City within thirty (30) days of submittal by the City of an itemized billing for costs incurred under this Section 11.

Section 12. – City's Reservation of Rights.

12.1 Franchise Fees. The City is not seeking to impose any franchise fee or similar compensation for the benefits and privileges granted under this Franchise and in consideration of the permission to use the City's Rights-of-Way as of the effective date of this Franchise. However, the City reserves the right to impose a franchise fee upon one hundred and twenty (120) days' notice to Franchisee, if it believes it is consistent with Applicable Laws. Franchisee reserves the right to challenge the imposition of any such compensation if it believes it is inconsistent with Applicable Laws. Payment of a franchise fee under this Franchise shall not exempt Franchisee from the payment of any generally applicable fee, tax, or charge on the business, occupation, property, or income of Franchisee that may be imposed by the City. The City also reserves the right to require Franchisee to obtain a separate franchise for a change in use, which franchise may include provisions intended to regulate Franchisee's operations as allowed under Applicable Law. Nothing contained within this Franchise shall preclude Franchisee from challenging any fee, this Franchise, or separate agreement under Applicable Laws.

12.2 Utility Taxes. Franchisee acknowledges that certain of its operations within the City may constitute a telephone business and may be subject to utility taxes permitted under Applicable Laws. Franchisee agrees it shall be responsible for the payment of any applicable utility taxes, including, without limitation, any utility taxes enacted by the City after the Effective Date of this Franchise. Franchisee's obligation to pay such taxes shall not be considered a franchise fee or in lieu of any other costs payable to the City as provided herein. Nothing in this Section 12.2 is intended to alter, amend, modify, or expand the taxes and fees that may lawfully be assessed on Franchisee's business activities under this Franchise under Applicable Laws.

Section 13. – Indemnification; Liability.

13.1 General Indemnification. Franchisee shall indemnify, defend, and hold the City, its

officers, officials, boards, commissions, agents, volunteers, and employees, harmless from any action or claim for injury, damage, loss, liability, cost or expense, including court and appeal costs and attorneys' fees or expenses, arising from any casualty or accident to Person or property, including, without limitation, damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, reconstruction, or any other act done under this Franchise, by or for Franchisee, its agents, or its employees, or by reason of any neglect or omission of Franchisee. Franchisee shall consult and cooperate with the City while conducting its defense of the City under this Franchise. Franchisee shall not be obligated to indemnify the City for injuries or damages caused by the negligence or willful misconduct of the City.

13.2 Indemnification for Relocation. Franchisee shall defend, indemnify, and hold the City harmless for any damages, claims, additional costs or expenses and attorneys' fees, including contractor construction delay damages, assessed against or payable by the City contributing to Franchisee's failure to remove, adjust, or relocate any of its Facilities in the Rights-of-Way in accordance with any relocation required by the City, provided that Franchisee shall not be liable under this section if Franchisee's failure to remove, adjust, or relocate any of its Facilities is the result of a Force Majeure Event.

13.3 Procedures and Defense. If a claim or action arises, the City or any other indemnified party shall promptly notify Franchisee of such claim or action and tender the defense of the claim or action to Franchisee, which defense shall be at Franchisee's expense. The City's failure to notify and request indemnification shall not relieve Franchisee of any liability that Franchisee might have, except to the extent that such failure prejudices Franchisee's ability to defend such claim or suit. The City may participate in the defense of a claim, but if Franchisee provides a defense at Franchisee's expense, then Franchisee shall not be liable for any attorneys' fees, expenses, or other costs the City may incur if it chooses to participate in the defense of a claim, unless and until separate representation is necessary. Then, the provisions of Section 13.5 shall govern Franchisee's responsibility for City's attorney's fees, expenses, or other costs. In any event, Franchisee may not agree to any settlement of claims affecting the City without the City's consent, which will not be unreasonably withheld or delayed.

13.4 Avoidance. Inspection or acceptance by the City of any work performed by Franchisee at the time of completion of construction shall not be grounds for avoidance by Franchisee of any of its obligations under this Section 13. Whether Franchisee carries out any activities under this Franchise through independent contractors shall not constitute an avoidance of or defense to Franchisee's duty of defense and indemnification under this subsection.

13.5 Expenses. If separate representation to fully protect the interests of both Parties is or becomes necessary, such as a conflict of interest between the City and counsel selected by Franchisee to represent the City, Franchisee shall pay, from the date such separate representation is required forward, all expenses incurred by the City in defending itself with regard to any action, suit, or proceeding subject to indemnification by Franchisee. Except that, if separate representation is or becomes necessary, and the City desires to hire counsel or any other outside experts or consultants and desires Franchisee to pay those expenses, then the City shall be required to obtain Franchisee's consent to the engagement of such counsel, experts, or consultants, such consent not

to be unreasonably withheld or delayed. The City's expenses shall include all out-of-pocket costs and expenses, such as consultants' fees and court costs, but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Franchisee, except in the event of a conflict of interest where such duplication may be required. Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any claim or action.

13.6 RCW 4.24.115. Should a court of competent jurisdiction determine that this Franchise is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to Persons or damages to property caused by or resulting from the concurrent negligence of Franchisee and the City, its officers, officials, employees, and volunteers, Franchisee's liability shall be only to the extent of Franchisee's negligence. It is expressly understood that the indemnification provided herein constitutes Franchisee's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties.

Section 14. – Insurance.

14.1 Policies. Franchisee shall maintain in full force and effect at its own cost and expense each of the following policies of insurance:

- a. Commercial General Liability insurance with limits of no less than \$5,000,000 per occurrence and \$5,000,000 general aggregate. Coverage shall be at least as broad as that provided by ISO CG 00 01 1/96 or its equivalent and include severability of interests. Such insurance shall name the City, its officers, officials, and employees as additional insureds per ISO CG 2026 or its equivalent. There shall be a waiver of subrogation and rights of recovery against the City, its officers, officials, and employees. Coverage shall apply as to claims between insureds on the policy, if applicable. Coverage may take the form of a primary layer and a secondary or umbrella layer, but the combination of layers must equal \$5,000,000 at a minimum.
- b. Commercial Automobile Liability insurance with minimum combined single limits of \$5,000,000.00 each occurrence with respect to each of Franchisee's owned, hired, and non-owned vehicles assigned to or used in the operation of the Facilities in the City. The policy shall contain a severability of interests provision.
- c. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington and employer's liability with a limit of \$5,000,000 each accident/disease/policy limit.
- d. Contractors Pollution Liability insurance shall be in effect throughout the entire Franchise Agreement covering losses caused by pollution conditions that arise from the operations of the Franchisee. Contractors Pollution Liability shall cover bodily injury, property damage, cleanup costs and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims. Franchisee may self-insure this coverage.

- e. Excess or Umbrella Liability insurance shall be excess over and at least as broad in coverage as the Franchisee's Commercial General Liability and Automobile Liability insurance. The City shall be named as an additional insured on the Franchisee's Excess or Umbrella Liability insurance policy.
- f. Contractors Pollution Liability insurance shall be written in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$2,000,000. Franchisee may self-insure this coverage.
- g. Excess or Umbrella Liability insurance shall be written with limits of not less than \$5,000,000 per occurrence and annual aggregate. The Excess or Umbrella Liability requirement and limits may be satisfied instead through Franchisee's Commercial General Liability and Automobile Liability insurance, or any combination thereof that achieves the overall required limits.

14.2 Deductibles. Any deductible related to the insurance policies in Section 14.1 shall not in any way limit Franchisee's liability to the City.

14.3 Requirements. All policies shall contain, or shall be endorsed so that:

- a. The City, its officers, officials, boards, commissions, employees, and agents are to be covered as, and have the rights of, additional insureds with respect to liability arising out of activities performed by, or on behalf of, Franchisee under this Franchise or Applicable Laws, or in the construction, operation or repair, or ownership of the Network;
- b. Franchisee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, boards, commissions, employees, volunteers, and agents. Any insurance or self-insurance maintained by the City, its officers, officials, boards, commissions, employees, and agents shall be in excess of the Franchisee's insurance and shall not contribute to it; and
- c. Franchisee's insurance shall apply separately to each insured against whom a claim is made or lawsuit is brought, except with respect to the limits of the insurer's liability.

14.4 Acceptability of Insurers. The insurance obtained by Franchisee shall be placed with insurers with a Best's rating of no less than "A VII."

14.5 Verification of Coverage. The Franchisee shall furnish the City with certificates of insurance and endorsements or a copy of the page of the policy reflecting blanket additional insured status. The certificates and endorsements for each insurance policy shall be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements for each insurance policy shall be on forms that are consistent with standard industry practices.

14.6 Maintenance of Insurance. Franchisee's maintenance of insurance as required by this Section 14 shall not be construed to limit the liability of Franchisee to the coverage provided by

such insurance or otherwise limit the City's recourse to any remedy available at law or equity. Further, Franchisee's maintenance of insurance policies required by this Franchise shall not be construed to excuse unfaithful performance by Franchisee.

Section 15. – Abandonment of Franchisee's Telecommunications Network.

15.1 Upon the expiration, termination, or revocation of the rights granted under this Franchise, Franchisee shall remove all of its Facilities from the Rights-of-Way within thirty (30) days of receiving written notice from the Mayor. The Facilities, in whole or in part, may not be abandoned by Franchisee without written approval by the City. Any plan for abandonment or removal of Franchisee's Facilities must be first approved by the Mayor, and all necessary permits must be obtained before this work. The plan for abandonment shall include a proposal and instruments for transferring ownership to the City. Any Facilities that are not permitted to be abandoned in place and that are not removed within thirty (30) days of receipt of the City's notice may be removed by the City and the area restored at Franchisee's cost. Franchisee shall pay these costs to the City within thirty (30) days of receiving an invoice. If Franchisee fails to pay the City within this timeframe, the City may avail itself of any remedy available at law or equity.

Section 16. – Bonds.

16.1 Construction Guarantee. As a condition of performing work in the Right-of-Way, the timely, complete, and faithful performance of all construction work in the Right-of-Way shall be guaranteed in an amount equal to 130% of the cost estimate (prepared by a licensed contractor, professional engineer, or architect) of the construction work, by either the Franchisee or the Franchisee's contractor performing the actual construction work. The guarantee shall be by performance bond. If Franchisee, in the sole judgment of the City, has a history of corrections or default, Franchisee must provide the full guarantee by assignment of funds. These funds shall guarantee the following: (1) timely completion of construction; (2) construction in compliance with all applicable plans, permits, technical codes, and standards; (3) proper location of the Facilities as specified by the City; (4) restoration of the Rights-of-Way and other City properties affected by the construction; (5) repair and restoration of any damage to public or private property caused by the construction; (6) submission of as-built drawings after completion of construction; and (7) timely payment and satisfaction of all claims, demands, or liens for labor, materials, or services provided in connection with the work that could be asserted against the City or City property. The guarantee must remain in full force until the completion of construction and/or any necessary repairs, including final inspection, corrections, and final approval of the work, recording of all easements, provision of as-built drawings, and the posting of a maintenance guarantee as described in Section 16.2. Compliance with the performance guarantee requirement of the City's current Design and Construction Standards shall satisfy the provisions of this Section.

16.2 Maintenance Guarantee. Maintenance and the successful operation of the Right-of-Way improvements shall be bonded for a period of at least two (2) years (or other period as required by Bonney Lake Municipal Code, as may be amended) from the date of final construction approval. The bond shall be in an amount to be determined by the City. The minimum maintenance guarantee shall be Five Thousand Dollars (\$5,000.00) or 30% of the original performance

construction guarantee as described in Section 16.1, whichever is greater. Franchisee will have thirty (30) days to correct any deficiencies identified by the City. The satisfactory correction of the work may commence a new two-year maintenance period for the improvements as corrected, as determined by the City. The City will initiate collection against the financial guarantee if deficiencies are not satisfactorily addressed by the end of the thirty (30) day response period. Compliance with the maintenance guarantee requirement of the City's current Design and Construction Standards shall satisfy the provisions of this Section 16.2. Original financial guarantee amounts described in Section 16.1 and this Section 16.2 may be reduced one time only before the maintenance period, at the discretion of the City. If an extension to any associated permits are granted, the financial guarantees may be increased based on an updated engineer's cost estimate or as determined by the City. Financial guarantees will be fully released only after all final punch list items are accomplished, final construction approval, and the lapse of the two (2) year maintenance guarantee period with all corrective actions complete and accepted by the City.

16.3 Franchise Bond. Franchisee shall provide City with a bond in the amount of Fifty Thousand Dollars (\$50,000.00) ("Franchise Bond") running or renewable for the term of this Franchise, in a form and substance reasonably acceptable to City. If Franchisee fails to substantially comply with any one or more of the provisions of this Franchise, following written notice and a reasonable opportunity to cure, then there shall be recovered jointly and severally from Franchisee and the bond any actual damages suffered by City as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of Facilities. Franchisee specifically agrees that its failure to comply with the terms of this Section 16.3 will constitute a material breach of this Franchise, subject to the notice and cure provisions of Section 17.2. Franchisee further agrees to replenish the Franchise Bond within thirty (30) days after written notice from the City that the amount of the Franchise Bond is deficient. The amount of the Franchise Bond shall not be construed to limit Franchisee's liability or to limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

16.4 Form of Bonds. All bonds provided to the City under this Section 16 shall be on forms provided by the City and with sureties registered with the Washington State Insurance Commissioner or other financial institutions acceptable to the City.

Section 17. – Remedies to Enforce Compliance.

17.1 Reservation of Rights.

17.1.1 In addition to the remedies provided in this Franchise, each Party reserves the right to pursue any remedy available at law or in equity to compel or require the other Party and/or its successors and assigns to comply with the terms of this Franchise. The pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a revocation for breach of the conditions of this Franchise.

17.1.2 All rights and remedies provided in this Franchise shall be in addition to and cumulative with any and all other rights and remedies available to either the City or Franchisee.

These rights and remedies are not exclusive, and the exercise of one or more rights or remedies may not be deemed a waiver of the right to exercise any other right or remedy at any time. Neither Party intends to waive any other rights, remedies, or obligations as provided by law, equity, or otherwise, and nothing contained in this Franchise shall be construed to effect any such waiver.

17.2 Procedure upon Breach. If either Party violates or fails to comply with any of the provisions of this Franchise or a permit issued as required by Section 3.2, or fails to heed or comply with any notice given under the provisions of this Franchise (the “Defaulting Party”), the other Party (the “Non-defaulting Party”) shall provide the Defaulting Party with written notice specifying with reasonable particularity the nature of the breach and the Defaulting Party shall undertake all commercially reasonable efforts to cure the breach within thirty (30) days of receipt of notification. If the Non-defaulting Party reasonably determines the breach cannot be cured within thirty (30) days, the Non-defaulting Party may specify a longer cure period, and condition the extension of time on the Defaulting Party’s submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty (30) day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Defaulting Party does not comply with the specified conditions, the Non-Defaulting Party may pursue any available remedy at law or in equity. In the event Franchisee is the Defaulting Party, if Franchisee has failed to timely cure any breach, the City, at its sole discretion, may elect to: (1) terminate this Franchise pursuant to Section 2.5; (2) claim liquidated damages of Two Hundred Fifty Dollars (\$250.00) per day against Franchisee (and collect from the Franchise Bond if necessary) as an estimate for damages that the Parties understand will be difficult to calculate in the event of a default; or (3) extend the time to cure the breach if under the circumstances additional time is reasonably required.

Section 18. – Non-Waiver.

18.1 The failure of either Party to insist upon strict performance of any of the covenants and agreements of this Franchise or to exercise any option conferred in any one or more instances shall not be construed to be a waiver or relinquishment of any such covenants, agreements, or option or any other covenants, agreements, or option.

Section 19. – Police Powers and City Regulations.

19.1 Nothing within this Franchise may be deemed to restrict the City’s ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this Franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to reasonably control by appropriate regulations, consistent with 47 U.S.C. § 253, the location, elevation, manner of construction, and maintenance of any Facilities by Franchisee, and Franchisee shall promptly conform with all such regulations, unless compliance would cause Franchisee to violate Applicable Laws. The City reserves the right to promulgate any additional regulations of general applicability as it may find necessary in the exercise of its lawful police powers consistent with 47 U.S.C. § 253. In the event of a conflict between the provisions of this Franchise and any other ordinance(s) enacted under the City’s police power authority, the other

ordinances(s) shall take precedence over this Franchise.

Section 20. – Acceptance.

20.1 This Franchise may be accepted by Franchisee by its filing with the City Clerk of an unconditional written acceptance, within sixty (60) days from the City's execution of this Franchise, in the form attached as **Exhibit A**. Failure of Franchisee to so accept this Franchise will constitute a rejection by Franchisee and the rights and privileges granted shall cease. In addition, Franchisee shall file the certificate of insurance and the additional insured endorsements obtained pursuant to Section 14, any construction guarantees and bonds, if applicable, as described in Section 16.

Section 21. – Survival.

21.1 All of the provisions, conditions, and requirements in Sections 3, 4, 5, and 13 of this Franchise shall be in addition to any and all other obligations and liabilities Franchisee may have to the City at common law, by statute, or by contract, and shall survive this Franchise, and any renewals or extensions, to the extent provided. All of the provisions, conditions, regulations, and requirements contained in this Franchise shall further be binding upon the successors, executors, administrators, legal representatives, and assigns of Franchisee and all privileges, as well as all obligations and liabilities of Franchisee shall inure to its successors and assigns equally as if they were specifically mentioned where Franchisee is named.

Section 22. – Assignment and Changes of Ownership or Control.

22.1 Written Consent. Except as set forth below, neither Party may assign or transfer its rights or obligations under this Agreement, in whole or part, to a third party, without the written consent of the other Party which shall not be unreasonably withheld, conditioned, or delayed. Any agreed upon assignee will take the place of the assigning Party, and the assigning Party will be released from all of its rights and obligations upon such assignment.

22.1.1 Notwithstanding the foregoing, Franchisee may at any time, on written notice to the City, assign this Franchise or any or all of its rights and obligations under this Franchise:

- (a) to any Affiliate of Franchisee;
- (b) to any successor in interest of Franchisee's business operations in the City in connection with any merger, acquisition, or similar transaction if Franchisee determines after a reasonable investigation that the successor in interest has the resources and ability to fulfill the obligations of this Franchise; or
- (c) to any purchaser of all or substantially all of Franchisee's Facilities in the City if Franchisee determines after a reasonable investigation that the purchaser has the resources and ability to fulfill the obligations of this Franchise.

The written notice required by this Section shall be at least thirty (30) days prior to the closing of the transaction under subsection (a), and ninety (90) days before the closing of any transaction under subsections (b) and (c). In connection with any proposed transaction under subsections (b) and (c), Franchisee shall cooperate with any requests from the City for any information related to

the legal, technical, and/or financial ability of a proposed purchaser or successor in interest to comply with the terms of this Franchise.

22.2 Franchisee Responsibility. Following any assignment of this Franchise to an Affiliate pursuant to Section 22.1.1(a), Franchisee will remain responsible for the Affiliate's performance under the terms of this Franchise.

Section 23. – Eminent Domain.

23.1 The existence of this Franchise shall not preclude the City from acquiring by condemnation in accordance with Applicable Laws, all or a portion of Franchisee's Facilities for the fair market value. In determining the value of Facilities, no value shall be attributed to the right to occupy the area conferred by this Franchise.

Section 24. – Vacation.

24.1 If at any time the City, by ordinance and in accordance with Applicable Laws, vacates all or any portion of the area affected by this Franchise, the City shall not be liable for any damages or loss to the Franchisee by reason of the vacation. The City shall notify Franchisee in writing not less than sixty (60) days before vacating all or any portion of any such area. The City will, if practicable, reserve an easement for Franchisee's Facilities under the same terms and conditions as this Franchise at the location vacated by City, and if not practicable, the City may, after sixty (60) days' written notice to Franchisee, terminate this Franchise with respect to such vacated area.

Section 25. – Notice.

25.1 Any notice or information required or permitted to be given to the Parties under this Franchise shall be sent to the following addresses unless otherwise specified by personal delivery, overnight mail by a nationally recognized courier, or by U.S. certified mail, return receipt requested and shall be effective upon receipt or refusal of delivery:

City: City of Bonney Lake
Attn: Jason Sullivan
21719 96th St. E
Buckley, WA 98321

With a copy to: Inslee Best Doezie & Ryder, P.S.
Attn: Jennifer Robertson
10900 NE 4th Street, Suite 1500
Bellevue, WA 98004

Franchisee: Forged Fiber 37, LLC
208 S. Akard St
Dallas, TX 75202-4206

With a copy to: Carly Nations

Section 26. – Compliance with all Applicable Laws.

26.1 Each Party agrees to comply with all Applicable Laws. This Franchise is subject to ordinances of general applicability enacted pursuant to the City’s police powers. Franchisee acknowledges that it shall be solely responsible for compliance with any applicable law or regulation of the Federal Communications Commission (“FCC”) to engage in business associated with use of the Rights-of-Way.

Section 27. – Attorney’s Fees.

27.1 If a suit or other action is instituted in connection with any controversy arising out of this Franchise, each Party shall pay all its legal costs and attorney fees incurred in defending or bringing such claim or lawsuit, including all appeals, in addition to any other recovery or award provided by law; except that nothing in this section shall be construed to limit the City’s right to indemnification under Section 13 of this Franchise.

Section 28. – Licenses, Fees, and Taxes.

28.1 Before constructing any Facilities or providing Services within the City, Franchisee shall obtain a business or utility license from the City, if so required. Franchisee shall pay all applicable taxes on personal property and Facilities owned or placed by Franchisee in the Rights-of-Way and shall pay all applicable license fees, permit fees, and any applicable tax unless documentation of exemption is provided to the City and shall pay utility taxes and license fees properly imposed by the City under this Franchise. However, nothing in this Franchise is intended to alter, amend, modify, or expand the taxes and fees that may lawfully be assessed on Franchisee’s business activities under Applicable Laws.

Section 29. – Miscellaneous.

29.1 Entire Agreement. This Franchise constitutes the entire understanding and agreement between the Parties as to the subject matter herein and no other agreements or understandings, written or otherwise, will be binding upon the Parties upon execution of this Franchise.

29.2 Severability. If any section, sentence, clause, or phrase of this Franchise is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality will not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Franchise unless such invalidity or unconstitutionality materially alters the rights, privileges, duties, or obligations, in which event either Party may request renegotiation of those remaining terms of this Franchise materially affected by the court’s ruling.

29.3 Authorized Signatories. The City and Franchisee respectively represent that their respective signatories are duly authorized and have full right, power, and authority to execute this Franchise on such Party’s behalf.

29.4 Venue. This Franchise is governed by the laws of the State of Washington. The United

States District Court for the Western District of Washington, and Pierce County Superior Court have proper venue for any dispute related to this Franchise.

29.5 Section Headings. Section headings are intended solely to facilitate the reading of this Franchise and may not affect the meaning or interpretation of the text within this Franchise.

29.6 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Franchise.

29.7 Enforcement. This Franchise may be enforced at both law and in equity.

[Signatures on Following Page]

DRAFT

IN WITNESS WHEREOF, this Franchise is signed in the name of the City of Bonney Lake, Washington this ____ day of _____, 2025.

CITY OF BONNEY LAKE, WASHINGTON

Terry Carter, Mayor

ATTEST:

Sadie Schaneman, City Clerk

APPROVED AS TO FORM:

Jennifer S. Robertson, City Attorney

DRAFT

EXHIBIT A

STATEMENT OF ACCEPTANCE

FORGED FIBER 37, LLC, for itself, its successors and assigns, accepts, and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached and incorporated by this reference. Forged Fiber 37, LLC, declares that it has carefully read the terms and conditions of this Franchise and unconditionally accepts all of the terms and conditions of the Franchise and agrees to abide by such terms and conditions. Forged Fiber 37, LLC, has relied upon its own investigation of all relevant facts and it has not been induced to accept this Franchise and it accepts all reasonable risks related to the interpretation of this Franchise.

FORGED FIBER 37, LLC

By: _____

Date: _____

Name: _____

Title: _____



Jason Sullivan
Public Services Director
City of Bonney Lake
21719 96th St. E.
Buckley, WA 98321

RE: Forged Fiber 37, LLC Franchise Application for City of Bonney Lake

Greetings,

Our client, AT&T, has signed a purchase agreement to purchase a portion of the fiber business of Lumen Technologies, Inc. and its affiliates (“Lumen”), which includes fiber assets and associated facilities that may be located within the rights-of-way of the City of Bonney Lake. The proposed transaction was announced on May 21, 2025, and is proceeding with the relevant federal regulatory approvals. In advance of transfer of any assets, AT&T seeks to obtain all necessary rights to own and construct facilities within the rights-of-way in the City of Bonney Lake (the “City”) under the legal entity, Forged Fiber 37, LLC. Forged Fiber 37, LLC is a Delaware limited liability company, with addresses at 208 S. Akard St, Dallas, TX 75202-4206. It is a wholly owned subsidiary of AT&T, Inc.

This is a request for a new Franchise Agreement. Forged Fiber 37, LLC seeks NEW rights to own, operate and construct facilities in the public rights-of-way. Forged Fiber 37 will provide wholesale service only; resellers will provide services to the general public, including residential customers and small businesses. The applicant intends to build fiber optic cable facilities in the City after the acquisition has been completed and is therefore asking for city-wide rights under the agreement. The Applicant does not have a scope or schedule for future construction projects at this time.

The applicant is requesting a city-wide Franchise to install, operate, maintain, repair, replace, and upgrade conduit, fiber optic cables, mule tape, buffer tubes, vaults, splice cases (aerial and buried), poles, and related facilities in the rights of way. At this time, the applicant does not have a map for the location of the facilities it will acquire from Lumen. Initially, the applicant will acquire the F2+ fiber optic cables and facilities currently in the public rights of way in or around Bonney Lake. Lumen will continue to own the F1 fiber optic cables and associated facilities. Lumen will also retain its copper and enterprise fiber.

Thank you very much for your time and consideration. Included with this cover letter is a Letter of Authorization to discuss this request on behalf of the applicant, as well as the review deposit.

I will serve as primary contact for this Franchise Application. Wireless Policy Group LLC is performing this work in association with our sister company, Busch Law Firm PLLC.

Our goal is to have the franchise agreement in place at the time the sale between Forged Fiber 37, LLC /AT&T and Lumen closes so that the authorization for ownership of the fiber assets is properly in place. Please contact me at (206) 484-2646 or carly.nations@wirelesspolicy.com if you have any questions regarding this request.

Sincerely,



Carly Nations

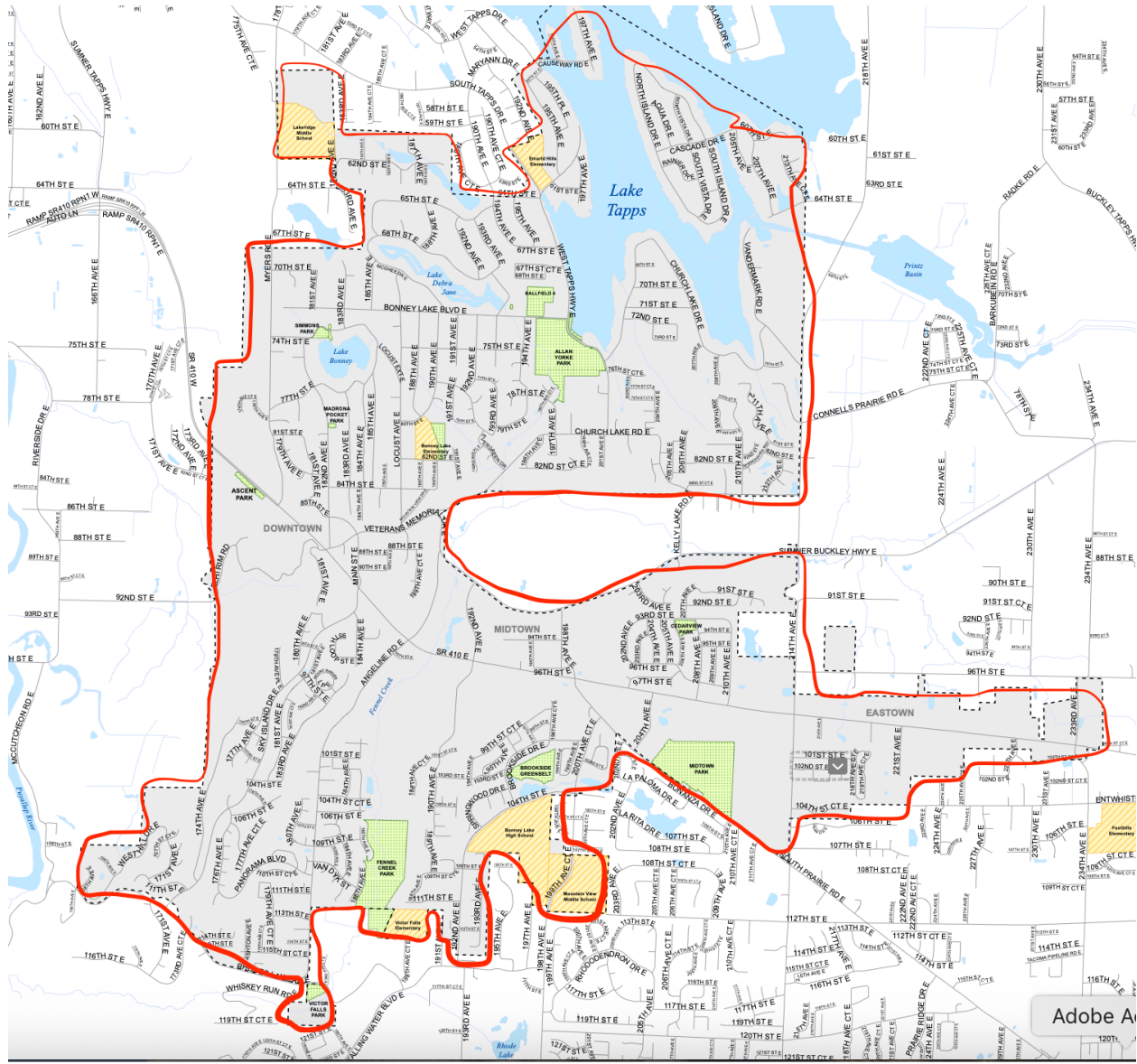
Director of Land Use & Entitlements

Wireless Policy Group, LLC

(206) 484-2646

carly.nations@wirelesspolicy.com

Service Area Map
City-wide Franchise Request



City Council Meeting

January 13, 2026
6:00 PM



<http://www.bonneylake.gov/>

Minutes

Location: The physical location of the Council Meeting was at the Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington. The public was also given the option to call in or attend virtually the Council Meeting.

I. Call to Order

Mayor Carter, called the meeting to order at 6:00 p.m.

A. Pledge of Allegiance

Mayor Carter led the audience in the Pledge of Allegiance.

B. Roll Call

City Clerk Sadie Schaneman called the roll. In addition to Mayor Carter, elected officials attending were Deputy Mayor Dan Swatman, Councilmember Angela Baldwin, Councilmember Aaron Davis, Councilmember Gwendolyn Fullerton, Councilmember Kerri Hubler, Councilmember J. Kelly McClimans, Councilmember Brittany Rock.

Staff members in attendance at the physical location were City Administrator John P. Vodopich, Police Chief Mark Berry, Administrative Services Director Chuck McEwen, Public Services Director Jason Sullivan, and City Clerk Sadie Schaneman.

Staff members in virtual attendance were Chief Finance Officer Cherie Reiersen and City Attorney Jennifer Robertson.

C. Agenda Modifications

Deputy Mayor Swatman moved to add an Executive Session and move items D, I, and J from the Consent Agenda to Full Council Issues. Councilmember Fullerton seconded the motion.

Motion approved 7 – 0.

II. Announcements, Appointments and Presentations: None.

III. Public Hearings, Public Comments & Correspondence

A. Public Hearing: None.

B. Public Comments

For efficient use of city resources, comments will be a short summary and not verbatim. An audio recording is available on the [state digital archives](#) and [public portal website](#) if you are needing a complete review of comments.

Sumner Mayor Karla Bowman, thanked staff for all their help with the recent flooding and making sand bags and walls in Sumner. Also, thanked for the loan of a pump to help with the flooding.

Dan Decker, expressed his support to the Council on their decision to go from four meetings a month to three on top of the three committee meetings they also chair.

C. Correspondence: None.

IV. Council Committee Reports

A. Finance Committee

Deputy Mayor Swatman reported the Finance Committee met in person and virtually today at 5:00 p.m. The Committee went thru personnel updates and had a discussion on the upcoming biennial budget.

B. Community Development Committee

Councilmember Fullerton reported the Community Development Committee met in person and virtually on January 6, 2026. The Committee discussed and forwarded AB26-9 Award Of Contract With SCI Infrastructure, LLC and AB26-10 Authorizing A Professional Services Agreement With Akana For Construction Management Services For The 77th St Ct and 205th Ave Sewer Repairs Project to tonight's Consent Agenda, and discussed and approved two franchise ordinances that will be on a future Council agenda.

C. Public Safety Committee

Councilmember Baldwin reported the Public Safety Committee did not meet and is expected to have their next meeting on February 10, 2026, at 3:45 p.m.

D. Other Reports

Councilmember Fullerton: Communities For Families (CFF). The committee met on January 8, 2026, and discussed the flooding in Sumner.

V. Consent Agenda

Councilmember Baldwin moved to approve the Consent Agenda. Councilmember Fullerton seconded the motion.

Motion approved 7 – 0.

A. Approval of Minutes: None.

B. **Approval of Accounts Payable and Utility Refund Checks/Vouchers:** Accounts Payable check/vouchers #100595 to #100679, and wire transfers #20251209, and #20251211 in the amount of \$477,733.40. Accounts Payable check/voucher wire

transfer #2025121701 for City purchasing cards in the amount of \$50,763.06. Accounts Payable wire transfers #2025112001, and #2025120201 in the amount of \$34,788.01. Accounts Payable check/vouchers #100680 to #100728, and wire transfers #20251218, #50009564, #2025121501, and #2025121801 in the amount of \$1,255,822.05. Accounts Payable check/vouchers #100750 to #100757 in the amount of \$5,035.85. **Voids:** None.

- C. **Approval of Payroll:** December 1-15, 2025 for checks #35328 – 35335 including Direct Deposits and Electronic Transfers totaling \$852,919.48. Voids: Checks #35234, 35243, 35254, 35263, 35274, 35282, 35321; Replaced with #35321, 35322, 35323, 35324, 35325, 35326, 35327.
- D. ~~AB26-5- An Ordinance of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Regarding The Office Of Recreation; Amending Section 2.08.030.F BLMC And 2.08.050 BLMC For The Purpose Of Relocating Recreation To The Department Of Public Services; Providing For Severability And Corrections; And Establishing An Effective Date. (Moved to Full Council Issues Item B.)~~
- E. **AB26-8-** An Ordinance of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Amending Article III Of The Bonney Lake Council Policies & Procedures Relating To Regular Council Meeting Dates And Times; Repealing Ordinance No. 1546; Providing For Severability And Corrections; And Establishing An Effective Date.
- F. **AB26-3-** A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Changing The Regular Meeting Dates And Start Times For Council Standing Committees And Repealing Resolution Nos 2531 And 3219.
- G. **AB26-4-** A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Amending Administration And Police Department Sections Of The City's Fee Schedule Of Resolution 3282 To Add Clarifying Language And Update Fees In The Police Department Section.
- H. **AB26-9-** A Resolution of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing Award Of Contract With SCI Infrastructure, LLC For The 77th St Ct and 205th Ave Sewer Repairs Project.
- I. ~~AB26-11- A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Adopting Robert's Rules Of Order As A Basic Guide For Fair And Orderly Procedure In Council Meetings And Repealing Resolution No 840. (Moved to Full Council Issues Item C.)~~
- J. ~~AB26-7- -A Motion of the City Council of the City of Bonney Lake, Pierce County, Washington, Amending The Council Policies And Procedures To Update The Parliamentary Procedure, Parliamentarian, Council Committees Sections, Updating Meeting Sections, And Other Sections To Reflect New Procedures. (Moved to Full Council Issues Item D.)~~

- K. **AB26-10-** A Motion of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Authorizing A Professional Services Agreement With Akana For Construction Management Services For The 77th St Ct and 205th Ave Sewer Repairs Project.

VI. Full Council Issues

- A. **AB26-6-** A Motion of the City Council of the City of Bonney Lake, Pierce County, Washington, Authorizing The Mayor To Sign An Interlocal Agreement With The Town Of South Prairie For Municipal Court Services.
Councilmember Fullerton moved to approve AB26-6. Councilmember Baldwin seconded the motion.

Introduced by City Administrator Vodopich who gave an overview of the interlocal agreement with the Town of South Prairie. The Council discussed and shared their concerns, including:

- Fees
- Cost to cover services

Motion approved 7 – 0.

- B. **AB26-5- (Moved from Consent Agenda Item D.)** An Ordinance of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Regarding The Office Of Recreation; Amending Section 2.08.030.F BLMC And 2.08.050 BLMC For The Purpose Of Relocating Recreation To The Department Of Public Services; Providing For Severability And Corrections; And Establishing An Effective Date.
Councilmember Baldwin moved to approve AB26-5. Deputy Mayor Swatman seconded the motion.

Introduced by Public Services Director Sullivan who gave an overview of moving the Recreation Program from Executive Department to Public Services Department. The Council discussed and shared their concerns, including:

- Staffing
- Budget
- Location
- Ease of signing up

Motion approved 7 – 0.

- C. **AB26-11- (Moved from Consent Agenda Item I.)** A Resolution of the City Council of the City of Bonney Lake, Pierce County, Washington, Adopting Robert's Rules Of Order As A Basic Guide For Fair And Orderly Procedure In Council Meetings And Repealing Resolution No 810.
Councilmember Baldwin moved to Approve AB26-11. Deputy Mayor Swatman seconded the motion.

City Clerk Schaneman explained the resolution states that using Robert's Rules of Order is just a basic guide to start with and Council can amend as needed. There was no council discussion.

Motion approved 7 – 0.

- D. **AB26-7- (Moved from Consent Agenda Item J.)** A Motion of the City Council of the City of Bonney Lake, Pierce County, Washington, Amending The Council Policies And Procedures To Update The Parliamentary Procedure, Parliamentarian, Council Committees Sections, Updating Meeting Sections, And Other Sections To Reflect New Procedures.

Deputy Mayor Swatman moved to Approve AB26-7. Councilmember Baldwin seconded the motion.

Introduced by Councilmember Baldwin who explained that if two committee members want to be chair, it may become awkward and uncomfortable for the third member since they will be the ones choosing.

Councilmember McClimans made a motion to add a sentence stating that if two members want to be chair of a committee, the vote will be brought to the full Council to vote. Councilmember Baldwin seconded the motion.

City Clerk Schaneman explained committee meetings are scheduled and if no chair is appointed at the first committee meeting and needs to wait to be brought back to Council, it would mean not having a full Finance Committee and no one chairing the committees for a couple of meetings. The proposed wording in the Council Policies & Procedures would have chairs chosen at the first Council meeting along with the Deputy Mayor.

Councilmember McClimans motioned to withdraw his motion after reading the proposed language. Councilmember Baldwin seconded the motion.

There was general consensus to withdraw the motion.

Council took a vote on the original motion to approve AB26-7.

VII. Executive/Closed Session

Mayor Carter announced the City Council will meet in Executive Session pursuant to RCW 42.30.110 (1)(i) to discuss potential litigation with legal council in attendance. He stated the session will last for 15 minutes and there will be no Council action following

the session.

Due to no action being taken on the matter, Mayor Carter announced the Council Meeting would now be adjourned.

The Executive Session started at 6:54 p.m. and concluded at 7:09 p.m.

VIII. Adjournment

At 6:54 p.m. the Meeting was adjourned by Mayor Carter with the common consent of the City Council.

Sadie A. Schaneman, MMC, City Clerk

Terry Carter, Mayor

Items presented to Council at the January 13, 2026, Meeting for the record: None.

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are added to the back of the packet the next day. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.

City Council Meeting

**January 20, 2026
6:00 PM**



<http://www.bonneylake.gov/>

Minutes

Location: The physical location of the Council Meeting was at the Bonney Lake Justice & Municipal Center, 9002 Main Street East, Bonney Lake, Washington. The public was also given the option to call in or attend virtually the Council Meeting.

I. Call to Order

Mayor Carter, called the meeting to order at 6:00 p.m.

A. Pledge of Allegiance

Deputy Mayor Swatman led the audience in the Pledge of Allegiance.

B. Roll Call

City Clerk Sadie Schaneman announced that Mayor Carter was not in attendance. In addition to Deputy Mayor Dan Swatman, Councilmember Angela Baldwin, Councilmember Aaron Davis, Councilmember Gwendolyn Fullerton, Councilmember Kerri Hubler, and Councilmember Brittany Rock. Councilmember McClimans was in virtual attendance.

Staff members in attendance at the physical location were Police Chief Mark Berry, Chief Finance Officer Cherie Reiersen, Administrative Services Director Chuck McEwen, Public Services Director Jason Sullivan, Assistant to City Administrator Leslie Harris, City Clerk Sadie Schaneman, and City Attorney Jennifer Robinson.

C. Agenda Modifications

None.

II. Council Committee Reports

Councilmember Fullerton:

Pierce County Regional Council (PCRC). Discussions focused on the unified regional approach and Urban Growth Area (UGA) planning policies. Also announced that she was officially sworn in as the alternate for the UGA.

Councilmember Hubler:

Community updates: Kiwanis pasta feed is set for Feb 10, and DECA is looking for mock judges. She also recently participated as a judge for the high school's 'Top Chef' event.

Councilmember Fullerton:

Aliance for Sustainable Climate Action (ASCA). Announced an upcoming trip to Olympia to seek funding support for the organization's efforts.

III. Consent Agenda

Councilmember Baldwin moved to Approve the Consent Agenda . Councilmember Fullerton seconded the motion.

Motion approved 7 – 0.

- A. **Approval of Accounts Payable and Utility Refund Checks/Vouchers:** None.
- B. **Approval of Payroll:** December 16–31, 2026, for checks #35336-35346 including Direct Deposits and Electronic Transfers totaling \$1,009,635.28. **Voids:** None

IV. Full Council Issues

None.

V. Audience Comments

For efficient use of city resources, comments will be a short summary and not verbatim. An audio recording is available on the [state digital archives](#) and [public portal website](#) if you are needing a complete review of comments.

Dan Decker, spoke about oaths also applying even when not in chambers and how a Councilmember had sued and gave false information.

VI. Council Open Discussion

Councilmember Fullerton:

Communities for Families (CFF). Sought a new representative for CFF meetings. It was determined that Councilmembers Baldwin, Davis, and Rock would share the responsibility of attending these meetings.

Councilmember Rock:

Communnity Garden. Inquired about the status of the Community Garden. Public Services Director Jason Sullivan responded with an overview of ongoing activities and next steps.

VII. Workshop Discussion Items

- A. **Review of Minutes:** November 25, 2025, City Council Meeting, December 2, 2025, City Council Workshop, December 9, 2025, City Council Meeting, December 16, 2025, City Council Workshop, and January 6, 2026, City Council Workshop.

The draft minutes were forwarded to the February 3, 2026, Meeting for approval.

- B. **AB26-19 - An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Granting A Non-Exclusive Telecommunications Franchise In, Across, Over, Along, Under, Through And Below The Public Rights-Of-Way Of The City Of Bonney Lake To Ezee Fiber Texas, LLC, Providing For Severability**

And Corrections; Requiring Acceptance By The Franchisee Within 30 Days; And Establishing An Effective Date.

Item was brought to CDC. The Council discussed and shared their concerns, including:

- Fiber to the premisis.
- More internet options.
- Time frame and competitive prices.
- Direct to customer.

There was Council consensus to place the item for action on the next Council agenda under the Consent Agenda.

- C. **AB26-15** - An Ordinance Of The City Council Of The City Of Bonney Lake, Pierce County, Washington, Granting A Non-Exclusive Telecommunications Franchise In, Across, Over, Along, Under, Through And Below The Public Rights-Of-Way Of The City Of Bonney Lake To Forged Fiber 37, LLC, A Delaware Limited Liability Company, And Wholly Owned Subsidiary Of AT&T, Inc.; Providing For Severability And Corrections; Requiring Acceptance By The Franchisee Within 30 Days; And Establishing An Effective Date.

Item was brought to CDC. The Council discussed and shared their concerns, including:

- Right of Ways
- Direct to consumers vs. provider

There was Council consensus to place the item for action on the next Council agenda under the Consent Agenda.

- D. Legislative Priorities — materials added at meeting

Introduced by City Administrator were letters detailing the City's legislative priorities. The Council expressed appreciation for staff's responsiveness to their concerns. They discussed and shared their concerns, including:

- Timeframes: License plates and PDR lawsuits.
- Public access to PDR information.
- Indigent legal defense.

Action: Council reached a consensus to bring these letters to the AWC City Action Days Conference.

VIII. Executive/Closed Session

None.

IX. Adjournment

At 7:21 p.m. the Meeting was adjourned by Deputy Mayor Swatman with the common consent of the City Council.

Sadie A. Schaneman, MMC, City Clerk

Dan Swatman, Deputy Mayor

Items presented to Council at the 01/20/2026, Meeting for the record: None

Note: Unless otherwise indicated, all documents submitted at City Council meetings and workshops are added to the back of the packet the next day. For detailed information on agenda items, please view the corresponding Agenda Packets, which are posted on the city website and on file with the City Clerk.