

CITY COUNCIL AGENDA
City Hall, 833 South Spruce Street
7:00 PM November 9, 2017

CALL TO ORDER:

Mayor Sexton
Council Members: Aslett, Bieche, J. DeGloria, R. DeGloria, Edmundson, Loving and Montgomery
Staff: Berner, Blaine, Dempsey, Erickson, Harrison, Hawes, Brad Johnson, Brittany Johnson, L. Johnson, Jongsma, Luvera, Morrison, Moser, Peterson, Pulst, Rabenstein, Schwetz, Sinclair, Toth, Ward, Yengoyan
City Council Meeting October 26, 2017

MINUTES:

AUDIT OF BILLS:

PUBLIC COMMENTS:

COUNCIL COMMENTS:

MAYOR'S UPDATE:

PROCLAMATION: National Hospice Palliative Care Month, November 2017

SPECIAL PRESENTATION: Home Trust of Skagit

OFFICERS REPORTS: TBD

UNFINISHED BUSINESS:

CONSENT AGENDA: Veteran's Day Parade Street Closure

NEW BUSINESS:

- 1) Resolution: Deferred Compensation Plan
- 2) Appointment of Tana Wood to Civil Service Commission
- 3) Annual procession by St. Charles Catholic Church
- 4) Franchise agreement with Astound Broadband
- 5) BMC Code Update – status update
- 6) Letter of Understanding: IAFF, regarding compensation
- 7) Subdivision approval: Maiben Glen

FUTURE WORKSHOP:

- 1) Budget Workshop – November 14, 2017 5:30 PM
- 2) Budget Workshop – November 16, 2017 5:30 PM
- 3) Budget Workshop – November 21, 2017 5:30 PM

EXECUTIVE SESSION:

- An Executive Session may be held to discuss Personnel, Litigation, and/or Land Acquisition.

ADJOURNMENT:

MEETING

- 1) PARKS BOARD: Monday **November 6, 2017** 5:30 PM
Parks & Rec. Dept., 900 E Fairhaven
- 2) LIBRARY BOARD: Tuesday **November 7, 2017** 6:00 PM
Library, 820 E Washington
- 3) AUDIT & FINANCE COMMITTEE: Thursday **November 9, 2017** 4:00 PM
Council Chambers, 833 S Spruce Street
- 4) PUBLIC SAFETY COMMITTEE: Tuesday **November 14, 2017** 4:00 PM
Public Safety Building, 311 Cedar Street
- 5) SKAT BOARD: Wednesday **November 15, 2017** 1:00 PM
Council Chambers, 833 S Spruce Street
- 6) PLANNING COMMISSION: Wednesday **November 15, 2017** 7:00 PM
Council Chambers, 833 S Spruce Street

November 2017

November 2017						
Su	Mo	Tu	We	Th	Fr	Sa
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December 2017						
Su	Mo	Tu	We	Th	Fr	Sa
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Sunday		Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Oct 29	30		31	Nov 1	2	3	4
Oct 29 - Nov 4							
5	6	5:30pm Parks Board (Parks & Rec Dept) - Judy Sheahan	7	8	9	10	11
Nov 5 - 11							
12	13		14	15	16	17	18
Nov 12 - 18							
19	20		21	22	23	24	25
Nov 19 - 25							
26	27		28	29	30	Dec 1	2
Nov 26 - Dec 2							

December 2017

December 2017						
Su	Mo	Tu	We	Th	Fr	Sa
3	4	5	6	7	1	2
10	11	12	13	14	8	9
17	18	19	20	21	15	16
24	25	26	27	28	22	23
31					29	30

January 2018						
Su	Mo	Tu	We	Th	Fr	Sa
7	1	2	3	4	5	6
14	8	9	10	11	12	13
21	15	16	17	18	19	20
28	22	23	24	25	26	27
	29	30	31			

Sunday		Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Nov 26		27	28	29	30	Dec 1	2
3		4	5	6	7	8	9
		5:30pm Parks Board (Parks & Rec Dept) - Judy Sheahan	6:00pm Library Board (Library)				
10		11	12	13	14	15	16
			4:00pm Public Safety Committee (Public Safety Building)		4:00pm Audit & Finance Committee (City Hall) 7:00pm Council Meeting		
17		18	19	20	21	22	23
			4:00pm Public Works Committee (Engineering Conf Room)	1:00pm SKAT Board (Burlington City Hall) 7:00pm 9:00pm Planning Commission (City Co			
24		25	26	27	28	29	30
				9:00am 10:00am Downtown Burlington Association (Visitor Information Center/	4:00pm Audit & Finance (City Hall) 7:00pm Council Meeting		
31		Jan 1, 18	2	3	4	5	6

11/26 - 12/1

12/3 - 8

12/10 - 15

12/17 - 22

12/24 - 29

12/31 - 1/5

October 26, 2017

CALL TO ORDER:

Mayor Steve Sexton called the meeting to order at 7:09 p.m. with the Pledge of Allegiance. Council members present: Bill Aslett, Tonya Bieche, Joe DeGloria, Edie Edmundson, and Chris Loving. All in favor; motion carried. Staff present: Jennifer Berner, Bryan Harrison, Leif Johnson, Michael Luvera, Kristen Morrison, Marv Pulst, Renee Sinclair, Sarah Ward, and Levon Yengoyan.

A motion was made to excuse **Councilor Ted Montgomery** from the meeting by **Councilors Aslett/Bieche**. All in favor; motion carried.

MINUTES:

Councilor Aslett stated a correction in regard to his Council Comment to do with full park closures: the intention of his comment was for council and staff to discuss either rules or ordinances that manage those types of rentals where there is lack of public access to parks, that he believes it is a risk management issue, and that there should be a process followed that is similar to that of street closures.

A motion was made to approve the minutes of the October 14, 2017 council meeting by **Councilors Aslett/J. DeGloria**, with the corrections as stated by **Councilor Aslett**. All in favor; motion carried.

AUDIT OF BILLS:

A motion was made by **Councilors J. DeGloria/Bieche** to approve Accounts Payable invoices to be paid in the amount of \$241,238.80; and Payroll expense for pay period ending October 10, 2017 in the amount of \$384,485.44. All in favor; motion carried.

PUBLIC COMMENTS:

Lori Routt, of 1115 E. Fairhaven Ave. introduced her husband, **Brad Routt**, and presented to council her concerns regarding a rat and mouse infestation which she believes has recently developed in the alleyway between Regent St. and Skagit St. **L. Routt** requested assistance from the city in finding a solution to the overpopulation of rats, stating that she believes the work being performed on the alleyway by the City of Burlington by road work crews has disturbed the rat population.

Mayor Sexton stated that staff will investigate the situation and do what is possible within the City's power to help remedy the situation. **City Administrator Bryan Harrison** stated that the appropriate staff would be made aware of the situation, and would investigate.

October 26, 2017

COUNCIL COMMENTS:

Councilor Edmundson stated that she and **Councilor J. DeGloria** attended the exit meeting with the State Auditors, and that the Auditors reported no findings or mismanagement with the Finance Department. Councilor Edmundson thanked **Director of Budget & Accounting Renee Sinclair** and staff for their efforts and a job well done, which led to the favorable State Auditor's report. **Councilor J. DeGloria** stated that he understood these findings could be accessed online; **Sinclair** confirmed that the findings can indeed be accessed on the State Auditor's website. **Mayor Sexton** also praised the Finance Department staff as well as Department Heads for their efforts in this matter.

MAYOR'S UPDATE:

Mayor Sexton stated that he and **City Administrator Bryan Harrison** would be touring the former Skagit County Jail building on Friday, October 27th at 9:00 a.m. **Councilor Loving** stated that he would like to attend; a request which **Mayor Sexton** approved.

Mayor Sexton discussed the Veteran's Day Parade, which will take place on Saturday, November 11th, with more information to be shared in the Officer's Reports by **Parks and Recreation Director Jennifer Berner**.

SPECIAL PRESENTATION:

No Special Presentation.

PROCLAMATION:

No Proclamation.

OFFICER REPORTS:

Parks and Recreation Director Jennifer Berner informed council of the details of the Veteran's Day parade, which is a coordinated effort with the Burlington Chamber of Commerce, Burlington Edison High School, and American Legion, stating that it will take place on Saturday, November 11th at 11:00 a.m. **Berner** stated that she has invited council via email to participate and ride in the parade route on the old fire engine; she requested that those councilmembers who would like to join to contact her by November 1st. **Berner** discussed the contributions of 50 volunteers from Burlington Edison High School, and that Skagit Valley College's Culinary Program would be assisting the American Legion with preparing breakfast. **Berner** stated that finding enough volunteers has been historically difficult, but that it appears there will be enough help this year. **Councilor Aslett** suggested asking the Burlington Edison High School group

October 26, 2017

“Varsity & Volunteerism” for assistance in the future; **Berner** stated that this event is indeed utilizing the volunteer coordination from this High School group.

City Administrator Bryan Harrison reminded council of the AWC Regional Cities meeting which will take place Thursday, November 2nd from 5:45 p.m. to 8:00 p.m. in the Council Chambers.

City Administrator Bryan Harrison informed council that the WCIA insurance pool has completed their annual audit, and that a summary report, which contained generally favorable results, will be distributed to council members in their boxes.

UNFINISHED BUSINESS:

No Unfinished Business.

NEW BUSINESS:

MAIBEN HOUSE RENTAL RATES AND POLICIES

Parks and Recreation Director Jennifer Berner presented to council the Maiben House Rental Rates and Policies, which is now available for use to the public. **Berner** stated that the same rental policies as the Community Center and Parks and Recreation buildings would be used at Maiben House, and that the fees are based the similarly-sized room at the Community Center. **Berner** discussed some differences in scheduling that are recommended for Maiben House, including limited hours of availability during weeknights, with renters required to leave by 9:00 p.m. in consideration of the neighborhood location, and allowing for rental on only one night per weekend due to the lack of janitorial staff on the weekends. **Councilor Aslett** discussed with **Berner** the possibility of the venue being used by one renter for consecutive days on a weekend. **Councilor J. DeGloria** asked for clarification on whether the rental fees would be used as a money-making endeavor by the city; **Berner** stated that that is not the intent of the fees, that it is to be a break-even enterprise, and that the fee structure is slated to be further examined by her department in 2018. **Mayor Sexton** also stated that the fees should not be used for profit, but rather to cover operational costs. A motion was made by **Councilors J. DeGloria/Aslett** to approve the Maiben House rental rates, hours, and days of operation and assume the current rental policies for the Community Center and Parks and Recreation Building for Maiben House. All in favor; motion carried.

October 26, 2017

REVISION OF BMC 13.08.050 SECTION E AND 13.08.080

Director of Budgeting and Accounting Renee Sinclair discussed the need to implement the revision of billing issuance and payment due dates for sewer service, as the City is moving toward governmental account standards method of accounting: a Modified Accrual Basis. **Director Sinclair** stated that because of this new method, there is a need to stabilize and standardize various operational tasks within the finance department, and that the present language of the code regarding payment issuance and due dates is somewhat unclear and in need of revision. **Director Sinclair** stated that the proposed ordinance would allow billing issuance dates to be on the 20th of January, March, May, July and September, with the payment due dates on the 15th of February, April, June, August, October, and December. **Councilors Bieche/ Aslett** made a motion to adopt Ordinance 1844 amending Section 13.08.050 Section E and Section 13.08.080 of Title 13 to revise and standardize billing issuance dates and payment due dates. All in favor; motion carried.

BURLINGTON POLICE DEPARTMENT INTERVIEW ROOM RECORDING SYSTEM UPDATE

Police Chief Mike Luvera discussed the need to replace the outdated, intermittently-functioning police station interview recording room equipment. **Chief Luvera** presented three quotes for the equipment, stating that Dimensional Communications of Mount Vernon, WA has presented the lowest bid at \$13,611.00, and that the installation is included in that price. A motion was made by **Councilors Aslett/R. DeGloria** to allow Burlington Police Department to repurpose current budget funding to purchase the recording system and have it installed by Dimensional Communications. All in favor; motion carried.

BMC CODE UPDATES – STATUS UPDATE

City Attorney Leif Johnson stated that the Planning and Legal departments are currently working on BMC Sections 1-8, and 14a. **Attorney Johnson** stated that this item is on the agenda to act as a place-holder for the purpose of keeping the Code Update progress readily available to council. **Councilor Aslett** asked for more information on the updates as time progresses; **Attorney Johnson** stated that information will be relayed as it is available, and that council will be able to process the information on their own timeline.

AGREEMENT WITH 2020 ENGINEERING FOR ENGINEERING SERVICES FOR FAIRHAVEN AVE. AND CHERRY ST. INTERSECTION PROJECT

Public Works Director Marv Pulst discussed the reconfiguration of the Fairhaven Ave. and Cherry St. intersection. **Pulst** stated that for a project of that size, typically, an engineering firm is hired for engineering services, and discussed the services included in

October 26, 2017

the contract specifications. **Pulst** stated that he feels this Engineering firm is best suited for the services included in the contract, and that the project is fully funded by the State. **Councilor Aslett** questioned the location of 2020 Engineering and whether the mileage charge quoted on the contract was accurate; **Pulst** stated that the mileage is likely indicative of many Engineers' collective mileage. A motion was made by **Councilors R. DeGloria/Bieche** to authorize Mayor to sign agreement with 2020 Engineering for engineering services. All in favor; motion carried.

City Administrator Bryan Harrison stated that the budget workshop held just prior to the present council meeting ended without a discussion of dates for future workshops. **Administrator Harrison** suggested dates for workshops; council discussed possible dates, and decided upon the following dates: Tuesday, November 14th; Thursday, November 16th, and Tuesday, November 21st at 5:30 p.m. **Councilor Aslett** discussed the need for council to discuss a mandatory starting time for the budget process in the future.

EXECUTIVE SESSION:

No Executive Session was held.

ADJOURNMENT:

Mayor Steve Sexton adjourned the meeting at 7:50 p.m.

Renee Sinclair
Director of Budget & Accounting

Steve Sexton
Mayor



National Hospice Palliative Care Month – November 2017

Office of the Mayor
City of Burlington, Skagit County, Washington

PROCLAMATION

WHEREAS, hospice and palliative care empower people facing a serious or life-limiting illness to live as fully as possible, surrounded and supported by family and loved ones;

WHEREAS, hospice and palliative care professionals are dedicated to helping diverse communities access quality end-of-life care and are committed to removing barriers to accessing care;

WHEREAS, hospice and palliative care bring patients and family caregivers the highest quality care delivered by an interdisciplinary team of skilled professionals that includes physicians, nurses, social workers, therapists, counselors, health aides, spiritual care providers and others who make the wishes of each patient and family a priority;

WHEREAS, through pain management and symptom control, caregiver training and assistance, and emotional and spiritual support, allow patients to live fully and make more meaningful moments until the end, surrounded and supported by the faces of loved ones, friends, and committed caregivers;

WHEREAS, Each year, hospice saves Medicare more than \$2 billion by providing solutions for physicians, care to patients and comfort to families anywhere, at any time;

WHEREAS, every year more than 1.65 million Americans living with life-limiting illness, and their families, received care from the nation's hospice programs in communities throughout the United States;

WHEREAS, more than 430,000 trained volunteers contribute 19 million hours of service to hospice programs annually in the U.S.;

WHEREAS, hospice and palliative care providers encourage all people to learn more about options of care and to share their wishes with family, loved ones, and their healthcare professionals;

NOW, THEREFORE, be it resolved that I, Steve Sexton, Mayor by virtue of the authority vested in me by City of Burlington, Skagit County, Washington State do hereby proclaim November 2017 as **National Hospice Palliative Care Month** and encourage citizens to increase their understanding and awareness of care at the end of life and to observe this month with appropriate activities and programs.

IN WITNESS WHEREOF, I have hereunto set my hand
this 9th day of November, 2017 and caused this seal to
be affixed.



ITEM #: _____

CHECK ONE:

NEW BUS. ☒

OLD BUS. _____

CONSENT AGENDA ITEM

Council Date: November 9, 2017 Subject: _____
Jennifer Berner,
Parks & Recreation Director

Attachments: Veterans Day Parade Road Closed Permit Public Hearing Required: YES () NO (☒)
Veterans Day Parade Route Map
Veterans Day Parade Road Closure Map

SUMMARY

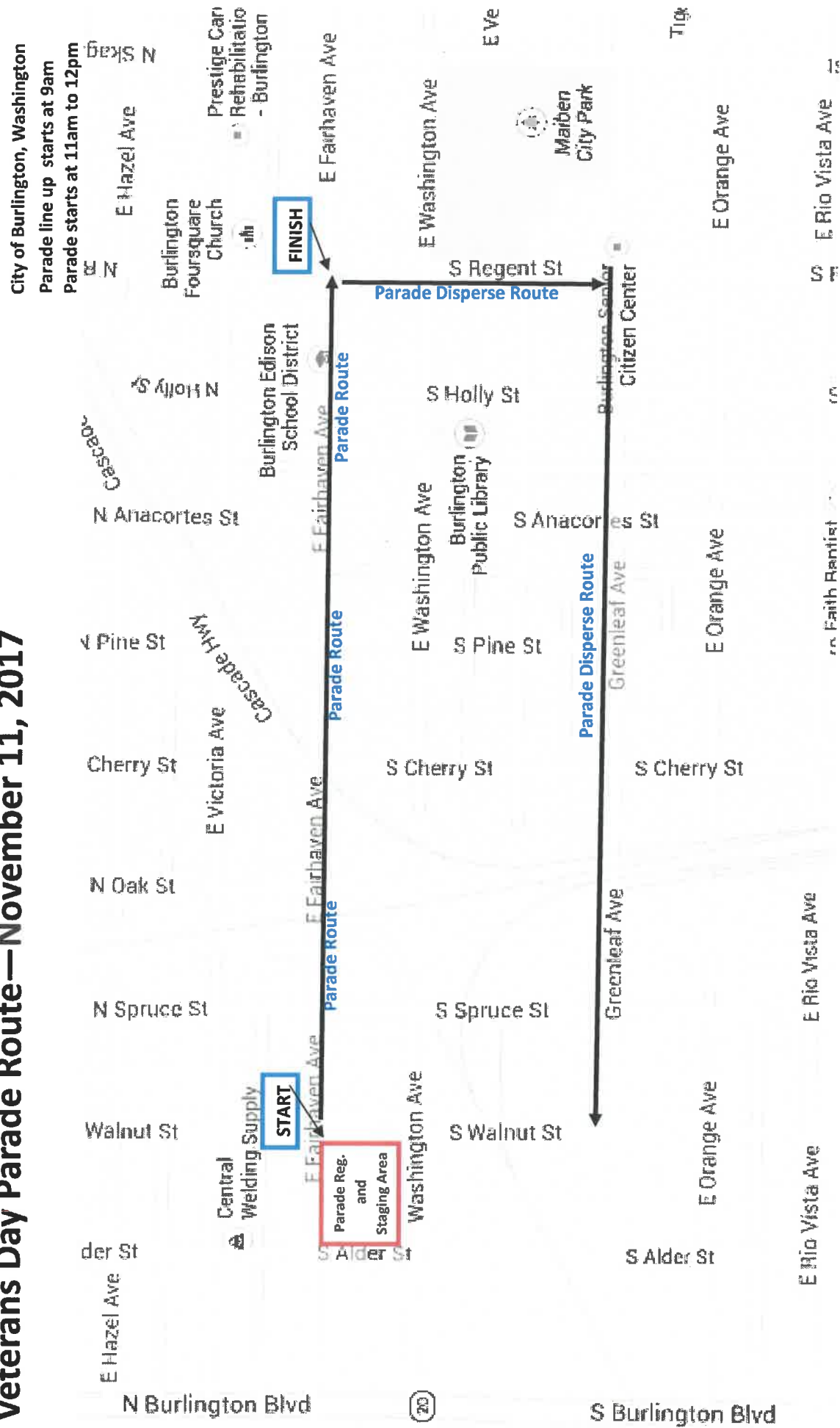
Veterans Day Parade Street Closure Request: The Burlington Parks and Recreation Department is requesting street closures for the annual Veterans Day Grand Parade. The parade will take place along E. Fairhaven Avenue on Saturday, November 11, 2017. The Veterans Parade will start at 11:00 AM continue through until approximately 12:00pm. Street Closures: 1.) E. Fairhaven Avenue from Alder to Skagit Street; 2.) Walnut Avenue from E. Fairhaven Avenue to Greenleaf; 3.) Washington Street from Alder Street to S. Spruce Street; There are no changes from the previous year and there were no issues with the parade.

Staff has met with the Police Department, Fire Department and Streets Department to discuss road closure times, confirm barricade locations and confer staff support for the day of the event.

RECOMMENDATION

Motion to approve the Consent Agenda item for the Veterans Day Parade and authorize the Mayor's signature on appropriate documents.

Veterans Day Parade Route—November 11, 2017



Parade Staging Area - Behind Bank of America Parking lot & on Walnut and Washington (see detail map)

Parade Begins - Corner of Fairhaven and Walnut

Parade Route - Fairhaven to Regent

Parade Dispersal Route - Along Regent to Greenleaf

VETERANS DAY PARADE ROAD CLOSURE MAP:

CLOSE BY: REOPEN AT:

BY 9:00 AM 12:00 PM: Parade Staging Area - Washington Ave. at Alder Street and Spruce Street / Walnut Street at Fairhaven and Greenleaf / Alder at Fairhaven
BY 9:45 AM 12:30PM: All other street closures - Fairhaven Ave. @ Alder east to Regent Street and all side streets leading onto Fairhaven Ave.
South Skagit Street at Fairhaven

Barricade street closure for Parade Route

— Barricade Street Closure-Staging Area

★ Digital Street Sign Location





ITEM #: 1

CHECK ONE:

NEW BUS. X

OLD BUS.

AGENDA ITEM

Council Date: November 9, 2017
Bryan Harrison, City Administrator

Subject: Resolution authorizing the employees of the City of Burlington to participate in the Washington State Deferred Compensation Program

Attachments: Proposed Resolution

Public Hearing Required: YES () NO (X)

SUMMARY

This resolution would allow eligible City employees to participate in the Washington State Deferred Compensation Program that is administered by the Department of Retirement Systems.

RECOMMENDATION

Move to approve the attached resolution authorizing eligible City of Burlington employees to participate in the Washington State Deferred Compensation Program and authorize the Mayor's signature.



Deferred Compensation Program (DCP) Resolution No. 09-2017

Send completed form to:
Department of Retirement Systems
Employer Support Services
PO Box 48380 • Olympia, WA 98504-8380

www.drs.wa.gov/dcp • 800.547.6657
email: employersupport@drs.wa.gov

This resolution can be used to:

- Authorize an organization's participation in the Washington State Deferred Compensation Program (DCP)
- Change the automatic enrollment option for organizations currently participating in DCP

Participation Status

City of Burlington (legal name of organization), a political subdivision of Washington state, authorizes and approves this resolution.

- ☒ This organization is requesting to participate in the Washington State Deferred Compensation Program.
Or
☐ This organization already offers DCP and is changing the automatic enrollment option.

Automatic Enrollment Option

[RCW 41.50.770](#) permits counties, municipalities, and other political subdivisions to participate in the DCP automatic enrollment provision as outlined in [WAC Chapter 415-501](#).

Does the organization want to participate in automatic enrollment? ☐ Yes ☒ No

Employer Contributions

Does (or will) the organization contribute dollars to any employee DCP account? ☒ Yes ☐ No

If yes, and the organization will participate in automatic enrollment, delay submitting employer contributions for DCP participants until at least 90 days following the initial employee deferral.

Authorizing Signature(s)

The organization:

1. Requests to participate in DCP, as allowed by [RCW 41.50.770](#).
2. Has reviewed the program provisions and agrees to accept all terms and conditions.
3. Understands and agrees that all employee deferrals are held in trust by the Washington State Investment Board for the exclusive benefit of program participants and eligible beneficiaries.

Passed this 9th day of November, 2017

Signature

Title

Mayor

Printed Name

Steve Sexton

Optional: To include additional Resolution signatures, add a separate sheet of paper.



ATTEST:

Renee Sinclair
Director of Budget & Accounting

APPROVED AS TO FORM:

Leif Johnson, City Attorney

Published: 11/XX/2017



ITEM #: 2

CHECK ONE:

NEW BUS. X

OLD BUS.

AGENDA ITEM

Council Date: November 9, 2017
Carly Ruacho, Chief Examiner

Subject: Appointment of Tana Wood to the Civil Service
Commission

Attachments: BMC 2.28
RCW 41.12.030 and RCW 41.08.030
Tana Wood CSC application and cover letter

Public Hearing Required: YES () NO (X)

SUMMARY

Pursuant to Burlington Municipal Code 2.28 the Civil Service Commission is to be comprised of three members, appointed by the mayor, who serve without compensation. Ms. Wood has expressed an interest in serving on the Civil Service Commission to fill the current vacancy. Ms. Wood has served in a variety of volunteer capacities including serving as president of a school board as well as nonprofit boards. With her 22 years with the Department of Corrections/Prisons, Ms. Wood also has extensive experience in personnel matters and government processes as well as familiarity with public safety issues. Ms. Wood meets the qualification requirements prescribed in RCW 41.08.030 and RCW 41.12.030. It is the recommendation of the Civil Service Examiner to appoint Ms. Wood to a term of service on the Civil Service Commission.

RECOMMENDATION

Move to appoint Tana Wood to the Civil Service Commission, effective November 9, 2017, for a term of six years.



**CIVIL SERVICE COMMISSION
NEW MEMBER APPLICATION**

Member Applicant Contact Information

Name Tana Wood Date 10/10/2017
Home Address 1745 Monroe City/St/Zip Burlington, WA, 98233
(Must be within city limits of Burlington)
Mailing Address (if different) PO Box 1029, Burlington, WA 98233
Home Phone _____ Work Phone _____ Cell Phone 907-590-8286
Email Address Tana.w@outlook.com
Employer Retired Occupation Prison Superintendent (retired)
Education/Volunteer Experience BA Psychology, Whitworth College 1968; MA Criminal Justice, Pacific Lutheran University, 1978

In another state I was an elected school board member (serving as President several years) which for which there was no remuneration. I have also served on a nonprofit board and in years past church related mission work.

New Member Background Information (attach additional sheets if necessary)

Do you have a connection with law enforcement or fire service?

Indirect with 22 years in Department of Corrections/Prisons. I attend all Burlington Public Safety Committee meetings as a private citizen only.

What experience have you had with employee relations including hiring, firing, discipline and/or promotion?

As Supt. of the Washington State Penitentiary I was the appointing authority which involved all of the above. In previous positions I was responsible for interviewing and selecting candidates. I have heard and ruled on numerous employee grievances and disciplinary proceedings. I have also sat on interview panels for selection of superintendent/associate superintendent of other institutions; statewide interview panels that determined eligibility and interview/selection panels for the heads of other Department of Corrections sections.

Describe your experience with unions/guilds, public process, and government regulations.

State service is totally governed by RCW, WAC, WSHA, OSHA, FLSA etc. I interpreted, applied, established or approved policies supporting these, responded to audits and inspections and at times conducted the same. I dealt extensively with whichever union was representing the DOC staff, met regularly with their regional director or business representative as well as continued dialogue/problem solving discussion with the local union president. In my school board position I interacted frequently with the union representatives for both the certified and the classified staff. I have not done any direct contract negotiation but have worked with our negotiating team as well as part of the board approval process. I always enjoyed a good working relationship with the union.

References not Related to Applicant

Name Richard "Dick" Morgan Phone 509-301-1495 Years Known 28

Description of relationship Worked together in corrections and at the Penitentiary, plus close personal friend

Name Robin and Carol Moses Phone 360-457-8970 Years Known 28+

Description of relationship Close personal friends, plus worked together in corrections

Name Mike Rawalt Phone 907-344-1946 Years Known 20

Description of relationship We were on the same nonprofit board plus close personal friend

Any Other Relevant Information

I can provide a resume with more detail if desired. At the Penitentiary I had 900 staff with 650 of those uniformed. We had 2500 inmates and at the time of my retirement in 1998 an annual budget of just under \$50 million. In my post retirement years I was an operations manager for a small Alaska Clinic and involved in interviews, hiring recommendations and many personnel matters. I was also a small business consultant and wrote personnel policies for clients. In one case I did the reference checks, application review and initial interviews for the client.

Community Service Agreement

The undersigned volunteer understands the nature and content of their duties, and in consideration of being permitted to participate in the volunteer program, agrees as follows:

1. To waive and release any and all claims for injuries or damages against the City of Burlington, it's officers, agents or employees which may arise out of, or in any way connected with the manner in which the duties are conducted; and,
2. To defend, indemnify, and hold harmless the City of Burlington, it's officers, agents and employees, from any liability for damage or claims for damage for personal injury, including death, and property damage, which may arise out of in in any way be connected with the manner in which the duties of a civil service commissioner are carried out.

I authorize the City of Burlington, it's agents at the time of my application for volunteer, or anytime during my service, to verify the information contained in this application as it relates to the volunteer position. I certify my statements in this application are true, complete and correct to the best of my knowledge and belief. I understand any falsification or omission of information may bar me from continued volunteerism.

Signature: Tana W. Cook Date October 12, 2017

Email or deliver your application along with a letter of interest to:



CIVIL SERVICE COMMISSION NEW MEMBER APPLICATION

What skills, knowledge and approach would you bring to the Burlington Civil Service Commission?

All of the above experience; a commitment to local government and especially to fire and law enforcement; the ability to learn and think are some of my abilities. I'm a good team member, very fair but also willing (and able) to make the hard decisions if required.

Have you been a resident of the City of Burlington for 3 years immediately preceding application? ☒ Yes ☐ No

Are you a citizen of the United States? ☒ Yes ☐ No

Are you eligible to vote in Skagit County? ☒ Yes ☐ No

Do you adhere to a particular political party? ☒ Yes ☐ No

If yes, please indicate party name Republican

October 12, 2017

Brittany Johnson
Carly Ruacho
City of Burlington

Re: Civil Service Commission

Thank you for considering me for the vacant position on the commission. I believe I have the skills and knowledge to be an asset. The attached application should cover all of the bases, but I'd be happy to answer any questions either of you might have. I would be pleased to serve the City and the citizens of Burlington in this capacity if you so choose.

A handwritten signature in cursive script that reads "Tana Wood".

Tana Wood
Burlington, WA

RCW 41.08.030

Civil service commission created—Appointment—Terms—Removal—Quorum.

There is hereby created in every city, town or municipality except those referred to in RCW 41.08.010, having a full paid fire department a civil service commission which shall be composed of three persons.

The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with power and authority to select, appoint, or employ the chief of a fire department in any such city, prior to the enactment of this chapter. The members of such commission shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein he or she resides. The term of office of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause: PROVIDED, HOWEVER, That no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. Confirmation of said appointment or appointments of commissioners by any legislative body shall not be required. At the time of any appointment not more than two commissioners shall be adherents of the same political party.

[2007 c 218 § 3; 1935 c 31 § 3; RRS § 9558-3.]

NOTES:

Intent—Finding—2007 c 218: See note following RCW 1.08.130.

RCW 41.12.030

Civil service commission—Appointment—Terms—Removal—Quorum.

There is hereby created in every city, town or municipality except those referred to in RCW 41.12.010, having fully paid police officers a civil service commission which shall be composed of three persons.

The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with the power and authority to select, appoint, or employ the chief of a police department in any such city, prior to the enactment of this chapter. The members of such commission shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein he or she resides. The term of office of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause: PROVIDED, HOWEVER, That no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. Confirmation of said appointment or appointments of commissioners by any legislative body shall not be required. At the time of any appointment not more than two commissioners shall be adherents of the same political party.

[2007 c 218 § 11; 1937 c 13 § 3; RRS § 9558a-3.]

NOTES:

Intent—Finding—2007 c 218: See note following RCW 1.08.130.

Chapter 2.28

CIVIL SERVICE COMMISSION FOR POLICE AND FIRE

Sections:

- [2.28.010](#) Purpose.
- [2.28.020](#) Created – Membership – Appointment.
- [2.28.030](#) Organization.
- [2.28.040](#) Powers and duties.
- [2.28.050](#) Existing police force.
- [2.28.060](#) Police force – Applicants.
- [2.28.070](#) Police force – Removal of officers – Procedures.

2.28.010 Purpose.

The purpose of this chapter is to establish a civil service commission for the city police and fire departments, provide for the appointment of the commission members, and set forth the powers and duties of said commission, all pursuant to chapters [41.08](#) and [41.12](#) RCW. (Ord. 1464 § 1, 2001; Ord. 816 § 1, 1974).

2.28.020 Created – Membership – Appointment.

Pursuant to chapters [41.08](#) and [41.12](#) RCW, there is created a civil service commission to exercise the powers and to perform the duties established by such state law in connection with the selection, appointment and employment of police and fire department personnel in the city. The commission shall be composed of three members, who shall be appointed by the mayor and who shall serve without compensation. Such commissioners shall be appointed and shall have the qualifications as prescribed in RCW [41.08.030](#) and [41.12.030](#). (Ord. 1464 § 1, 2001; Ord. 816 § 2, 1974).

2.28.030 Organization.

The commission shall organize, hold meetings and conduct themselves as prescribed by chapters [41.08](#) and [41.12](#) RCW. The civil service commission shall meet in a regular open public meeting pursuant to the Open Public Meetings Act, at 6:00 p.m. on the second Tuesday of each month at the Police Training Room, 311 Cedar Street, Burlington. (Ord. 1737 § 6, 2011; Ord. 1464 § 1, 2001; Ord. 816 § 3, 1974).

2.28.040 Powers and duties.

The commission shall have all powers and perform all duties as prescribed in chapters [41.08](#) and [41.12](#) RCW, including but not limited to the adoption of rules and regulations, provide for tests, make investigations, conduct hearings and investigations, hear appeals, provide for, formulate and hold competitive tests, and certify to the appointing authority names of persons and eligible lists for police and fire department personnel, all in accordance with RCW [41.08.040](#) and [41.12.040](#). (Ord. 1464 § 1, 2001; Ord. 816 § 4, 1974).

2.28.050 Existing police force.

All policemen holding a position in the police department of the city, excluding the chief thereof, who shall have served in such position for a period of at least six months prior to August 22, 1974, and not on probation, are declared eligible for permanent appointment under civil service to the offices, places, positions or employment they now hold, without examination or other acts on their part, all in accordance with RCW [41.12.060](#). The position of chief of the police department of the city is specifically excluded from inclusion within the civil service. This exclusion shall apply to individuals appointed as police chief after July 1, 1987. (Ord. 1266 § 3, 1994; Ord. 816 § 6, 1974).

2.28.060 Police force – Applicants.

All applicants for employment with the police force of the city shall be required to have the qualifications, be subject to competitive examination, have a tenure of office and be subject to removal as provided by regulations adopted by the commission, the regulations, to be consistent with chapter [41.12](#) RCW. (Ord. 816 § 5, 1974).

2.28.070 Police force – Removal of officers – Procedures.

Removal, suspension, demotion or discharge of a person classified in the civil service under this chapter, and all investigations, hearings, appeals and procedures shall be in accordance with chapter [41.12](#) RCW, and the commission shall adopt rules and regulations implementing this chapter which shall substantially accomplish the purposes of chapter [41.12](#) RCW. (Ord. 816 § 7, 1974).

The Burlington Municipal Code is current through Ordinance 1817, passed June 25, 2015.

Disclaimer: The City Clerk's Office has the official version of the Burlington Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

LAND USE PERMIT & APPLICATION

Maiben Park to 935 Peterson Road

SITE ADDRESS

October 10, 2017

DATE OF APPLICATION

OWNER

St. Charles Catholic Church

NAME (OR NAME OF BUSINESS)

935 Peterson Road

MAILING ADDRESS

Burlington WA 98233

CITY/STATE/ZIP

PHONE NUMBER

TLUP -17

APPLICATION NUMBER

N/A

RECEIPT NUMBER

OWNER'S AUTHORIZED AGENT

Yadira Rodarte Valdez

NAME

ADDRESS

CITY/STATE/ZIP

360-610-9223

PHONE NUMBER

CONTACT PERSON FOR PROJECT

Yadira Rodarte Valdez

(360) 610-9223

NAME & PHONE NUMBER

DESCRIPTION OF PROJECT

**Annual Our Lady Guadalupe procession – Sunday,
December 10, 2017 at 11:30 a.m. from Maiben Park to
St. Charles Catholic Church at 935 Peterson Road.**

LAND USE PERMIT COMPONENTS

APPLIED FOR:

- ☐ Lot Boundary Adjustment
- ☐ Binding Site Plan
- ☐ Short Subdivision
- ☐ Establish or Change Use
- ☐ Plan Review
- ☐ Temporary Uses for more than two weeks
- ☐ Shoreline Substantial Development Permit
- ☐ Comprehensive Plan Amendment

- ☐ Zoning Variance including signs
- ☐ Flood Plain Variance and Appeals
- ☐ Noise Standards Variance
- ☐ Full Subdivision (preliminary plot)
- ☐ Zoning Map Amendment (Rezone & Contract Rezones)
- ☐ Conditional Use Permit
- ☒ Temporary Uses for up to two weeks
- ☐ Environmental Review

LAND USE PERMIT COMPONENTS

GRANTED X

DENIED

CONDITIONS OF PERMIT APPROVAL:

Procession route: Maiben Park – west down Fairhaven Avenue, south on Norris Street, under I-5 overpass to St. Charles Catholic Church at 935 Peterson Road. ***Subject to working out logistics with the Burlington Police Department and approval by the City Council.***

Scheduled for the November 9, 2017 City Council meeting.

WHEN SIGNED AND DATED BELOW, THIS IS YOUR PERMIT

Permission is hereby given to do the above work, according to the conditions hereon and according to the approved plans pertaining thereto, subject to compliance with the ordinances of the CITY OF BURLINGTON.

Permit Issued By

Planning Director

10/10/2017

Date

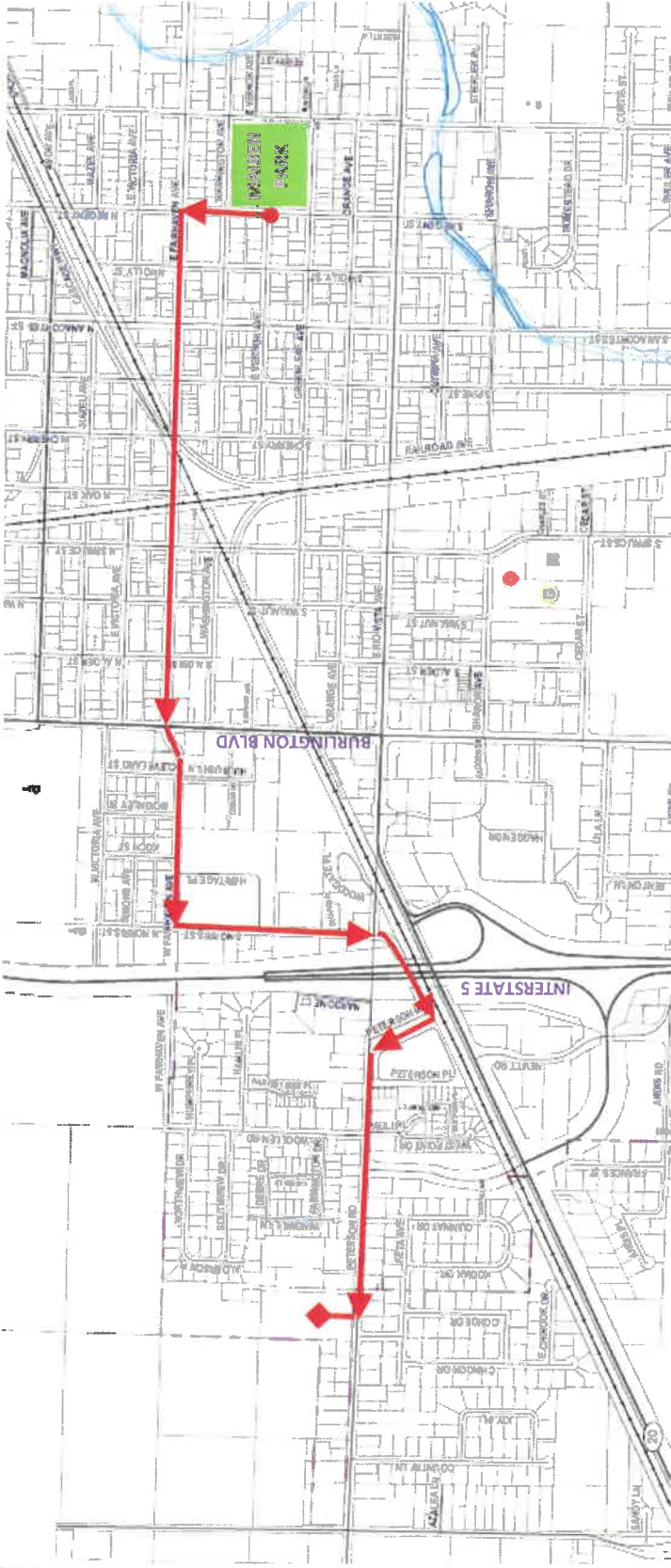
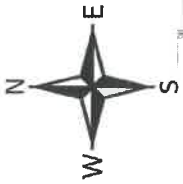
By affixing my signature, I hereby certify that I am the owner of the property for which this permit is issued or am an authorized representative of the owner.

All provisions of laws and ordinances governing this type of work will be complied with including obtaining all required building, street use and related permits.

Signature of Owner or Authorized Agent

10/10/2017

Date



Our Lady Guadalupe procession route
December 10, 2017 beginning at 11:30 a.m.
Maiben Park to Fairhaven, west to Norris, south under I-5, looping to 935 Peterson Road.

ITEM #: 4

CHECK ONE:

NEW. BUS. X

UNFINISHED BUS. _____

AGENDA ITEM

Council Date:	<u>November 9, 2017</u>	Subject:	<u>Franchise Agreement with Astound Broadband</u>
Originator:	<u>Leif Johnson, City Attorney</u>		
	<u>Geoff Hawes, IT Manager</u>		
Attachments:	<u>Proposed Franchise Ordinance</u>		
	<u>Proposed Settlement and Release</u>	Public Hearing Required:	YES (X) NO ()
		Notes:	

Summary

The legal and IT departments have been working with outside counsel regarding a new franchise agreement for Astound Broadband, LLC, d/b/a Wave in order to allow use of the City's right of way to provide communication services to the City of Burlington. Wave has used City right of way for many years under a now expiring franchise agreement. This franchise agreement is designed to comply with State law to allow the City to enforce acceptable use of it's right of way while giving Wave access in order to provide services that benefit residents and businesses of Burlington. The initial term of the proposed franchise is five years, with an additional five year renewal thereafter.

Additionally, a proposed settlement and release is attached which resolves potential outstanding issues that may remain pursuant to the terms of the previous franchise. This settlement and release is meant to be executed with approval of the new franchise.

RCW35A.47.040 requires two readings and publication of the franchise agreement prior to adoption. Therefore, council is asked to move to add the proposed franchise ordinance and proposed settlement and release onto the consent agenda of the next regular council meeting.

Recommendation / Proposed Motion

"I move to add the proposed franchise ordinance and proposed settlement and release onto the consent agenda of the next regular meeting of City Council."

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BURLINGTON, WASHINGTON, GRANTING TO ASTOUND BROADBAND, LLC D/B/A WAVE AND ITS AFFILIATES, SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND NONEXCLUSIVE FRANCHISE FOR FIVE YEARS, TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR A TELECOMMUNICATIONS NETWORK, IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW CERTAIN DESIGNATED PUBLIC RIGHTS-OF-WAY OF THE CITY OF BURLINGTON, WASHINGTON.

WHEREAS, Astound Broadband, LLC d/b/a Wave ("Franchisee") has requested that the City Council grant it a nonexclusive franchise, and

WHEREAS, Franchisee is the successor in interest to Black Rock Cable, Inc. which was granted a franchise pursuant to Ordinance No. 1453 which became effective on June 4, 2001, and

WHEREAS, the City Council has the authority to grant franchises for the use of its streets and other public properties pursuant to RCW 35A.47.040.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1 Franchise Granted.

Section 1.1 Pursuant to RCW 35A.47.040, the City of Burlington, a Washington municipal corporation (hereinafter the "City"), hereby grants to Franchisee, its affiliates, heirs, successors, legal representatives and assigns, subject to the terms and conditions hereinafter set forth, a franchise ("Franchise").

Section 1.2 This Franchise shall be for five (5) years, beginning on the effective date of this ordinance, set forth in Section 41 (the "Initial Term"). This Franchise shall automatically renew for one (1) additional five (5) year period (the "Renewal Term"), upon the same terms and conditions as set forth in this Franchise, unless either party provides one hundred twenty (120) days written notice to the other party to request an amendment to the Franchise.

Section 1.3 This Franchise ordinance grants Franchisee the right, privilege, and authority to construct, operate, maintain, replace, acquire, sell, lease and use all necessary Facilities for a telecommunications network, in, under, on, across, over, through, along or below the public

Rights-of-Ways located in the City of Burlington, as approved pursuant to City permits issued pursuant to this Franchise. Public "Rights-of-Way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, lane, public way, drive, circle, pathways, spaces, or other public right of way which, under City ordinances or applicable laws, the City has authority to grant franchises, licenses, or leases for use thereof, or has regulatory authority there over and only to the extent such Rights-of-Way are opened. Rights-of-Way for the purpose of this Franchise do not include: (i) buildings, other City-owned physical facilities, parks, poles, conduits, fixtures, real property or property rights owned by the City not reserved for transportation purposes, or similar facilities or property owned by or leased to the City, including, by way of example and not limitation, structures in the Rights-of-Way such as utility poles and light poles; and (ii) land dedicated for use which has not been approved and open for use by the public. "Facilities" as used in this Franchise means one or more elements of Franchisee's telecommunications network, with all necessary cables, wires, conduits, ducts, pedestals, antennas, electronics, and other necessary appurtenances; provided that new utility poles for overhead wires or cabling are specifically excluded unless otherwise specifically approved by the City. Equipment enclosures with air conditioning or other noise generating equipment are also excluded from "Facilities," to the extent such equipment is located in zoned residential areas of the City. For the purposes of this Franchise the term Facilities excludes "microcell" facilities, "minor facilities," "small cell facilities," all as defined by RCW 80.36.375, and "macrocell" facilities, including towers and new base stations and other similar facilities used for the provision of "personal wireless services" as defined by RCW 80.36.375.

Section 1.4 The Franchise between the City and Black Rock Cable, Inc. as adopted by Ordinance Number 1453 (the "2001 Franchise") is hereby superseded and replaced by this Franchise as of the Effective Date of this Franchise, and this Franchise, and all exhibits attached hereto shall constitute the entire Franchise between the parties. The grant of this Franchise shall have no effect to the requirements of the 2001 Franchise to indemnify or insure the City against acts and omissions occurring during the period that the 2001 Franchise was in effect and during any period in which Franchisee's Facilities were in the Rights-of-Way.

Section 2 Authority Limited to Occupation of Public Rights-of-Way.

Section 2.1 The authority granted herein is a limited authorization to occupy and use the Rights-of-Way throughout the City (the "Franchise Area"). Nothing contained herein shall be construed to grant or convey any right, title, or interest in the Rights-of-Way of the City to the Franchisee other than for the purpose of providing telecommunications services. Franchisee hereby warrants that it expects to provide the following services within the City: high speed data and fiber optic services, internet protocol-based services, internet access services, dark fiber, telephone, data transport and other telecommunications and information services (the "Services"). No right to install any facility, infrastructure, wires, lines, cables, or other equipment, on any City property other than a Right-of-Way, or upon private property without the owner's consent, or upon any City, public or privately owned utility poles or conduits is granted herein. Nothing contained 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, nor to subordinate the primary use of the Right-of-Way as a public thoroughfare. Franchisee may not offer Cable Services as defined in 47 U.S.C. § 522(6) or wireless communications facilities, including but not limited to small cell facilities and other personal wireless services, without obtaining a new franchise or an amendment to this Franchise approved by the City Council.

Section 2.2 Franchisee shall have the right, without prior City approval, to offer or provide capacity or bandwidth to its customers consistent with this Franchise provided:

(a) Franchisee at all times retains exclusive control over its telecommunications system, Facilities and Services and remains responsible for constructing, installing, and maintaining its Facilities pursuant to the terms and conditions of this Franchise;

(b) Franchisee may not grant rights to any customer or lessee that are greater than any rights Franchisee has pursuant to this Franchise, provided that leases or other commercial arrangements for the use of the Facilities installed pursuant to this Franchise may extend beyond the term of the Franchise, provided that the Franchise or Franchisee's right to occupy the Rights-of-Way are not revoked;

(c) Such customer or lessee shall not be construed to be a third-party beneficiary under this Franchise; and

(d) No such customer or lessee may use the telecommunications system or Services for any purpose not authorized by this Franchise.

Section 3 Non-Exclusive Franchise Grant. This Franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further Franchises in, along, over, through, under, below, or across any said Rights-of-Way. In the event that a subsequent telecommunications franchise or similar permission is granted to another franchisee or permittee (including, for the purposes of this Section, any City owned or operated telecommunications service or entity) for the provision of similar Services and if Franchisee believes that this Franchise creates obligations on the Franchisee that are discriminatory and inconsistent with 47 U.S.C. §253, then Franchisee shall have the right, within sixty (60) days of the effective date of that franchise or permission, to request in writing an amendment to this Franchise and the City will, in good faith, negotiate an amendment to this Franchise in order to remove or amend any such discriminatory or inconsistent provisions. The parties agree that this provision shall not require a word-for-word identical franchise or permission so long as the regulatory and financial burdens on each entity are materially equivalent when the Franchise is viewed in its entirety. Such Franchise shall in no way prevent or prohibit the City from using any of said roads, streets, or other public properties or affect its jurisdiction over them or any part of them, and the City shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of same as the City may deem fit, including the dedication, establishment, maintenance, and improvement of all new Rights-of-Way, thoroughfares and other public properties of every type and description.

Section 4 Location of Telecommunications Network Facilities.

Section 4.1 Franchisee is maintaining a telecommunications network, consisting of Facilities within the City. Franchisee may locate its Facilities anywhere within the Franchise Area consistent with the City's Design and Construction Standards and subject to the City's applicable permit requirements. Franchisee shall not be required to amend this Franchise to construct or acquire Facilities within the Franchise Area.

Section 4.2 To the extent that any Rights-of-Way within the Franchise Area are part of the state highway system ("State Highways") and are governed by the provisions of Chapter

47.24 RCW and applicable Washington State Department of Transportation (WSDOT) regulations, Franchisee shall comply fully with said requirements in addition to local ordinances and other applicable regulations. Without limitation of the foregoing, Franchisee specifically agrees that:

(a) any pavement trenching and restoration performed by Franchisee within State Highways shall meet or exceed applicable WSDOT requirements;

(b) any portion of a State Highway damaged or injured by Franchisee shall be restored, repaired and/or replaced by Franchisee to a condition that meets or exceeds applicable WSDOT requirements; and

(c) without prejudice to any right or privilege of the City, WSDOT is authorized to enforce in an action brought in the name of the State of Washington any condition of this Franchise with respect to any portion of a State Highway.

Section 5 Relocation of Telecommunications Network Facilities.

Section 5.1 Franchisee agrees and covenants to protect, support, temporarily disconnect, relocate, or remove from any Rights-of-Way any of its Facilities when reasonably required by the City by reason of traffic conditions or public safety, dedications of new Rights-of-Way and the establishment and improvement thereof, widening and improvement of existing Rights-of-Way, street vacations, freeway construction, change or establishment of street grade, or the construction of any public improvement or structure by any governmental agency acting in a governmental capacity or as otherwise necessary for the operations of the City or other governmental entity, provided that Franchisee shall in all such cases have the privilege to temporarily bypass in the authorized portion of the same Rights-of-Way upon approval by the City, which approval shall not unreasonably be withheld or delayed, any Facilities required to be temporarily disconnected, relocated or removed. Except as otherwise provided by law, the costs and expenses associated with relocations ordered pursuant to this Section 5.1 shall be borne by Franchisee. Nothing contained within this Franchise shall limit Franchisee's ability to seek reimbursement for relocation costs when permitted by RCW 35.99.060.

Section 5.2 Upon request of the City and in order to facilitate the design of City street and Right-of-Way improvements, Franchisee agrees, at its sole cost and expense, to locate, and if

reasonably determined necessary by the City, to excavate and expose its Facilities for inspection so that the Facilities' location may be taken into account in the improvement design. The decision as to whether any Facilities need to be relocated in order to accommodate the City's improvements shall be made by the City upon review of the location and construction of Franchisee's Facilities. The City shall provide Franchisee at least fourteen (14) days' written notice prior to any excavation or exposure of Facilities.

Section 5.3 If the City determines that the project necessitates the relocation of Franchisee's existing Facilities, the City shall:

(a) At least forty five (45) days prior to commencing the project, provide Franchisee with written notice requiring such relocation; provided, however, that in the event of an emergency situation, defined for purposes of this Franchise as a condition posing an imminent threat to property, life, health, or safety of any person or entity, the City shall give Franchisee written notice as soon as practicable; and

(b) At least forty five (45) days prior to commencing the project, 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 such notice and such plans and specifications, Franchisee shall complete relocation of its Facilities at least ten (10) days prior to commencement of the City's project 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 City's project.

Section 5.4 Franchisee may, after receipt of written notice requesting a relocation of its Facilities, submit to the City written alternatives to such relocation. Such alternatives must be submitted to the City at least thirty (30) days prior to commencement of the project. The City shall evaluate the alternatives and advise Franchisee in writing if one or more of the alternatives are suitable to accommodate the work that would otherwise necessitate relocation of the Facilities. If so requested by the City, Franchisee shall submit at its sole cost and expense additional information to assist the City in making such evaluation. The City shall give each

alternative proposed by Franchisee full and fair consideration. In the event the City ultimately determines that there is no other reasonable or feasible alternative, Franchisee shall relocate its Facilities as otherwise provided in this Section 5.

Section 5.5 The provisions of this Section 5 shall in no manner preclude or restrict Franchisee from making any arrangements it may deem appropriate when responding to a request for relocation of its Facilities by any person or entity other than the City, where the facilities to be constructed by said person or entity are not or will not become City-owned, operated, or maintained facilities, provided that such arrangements do not unduly delay a City construction project.

Section 5.6 If Franchisee breaches its obligations under Section 5.1 with respect to relocating its Facilities within the Franchise Area (and such breach is not caused by a Force Majeure Event, as defined in Section 40.10), and to the extent such breach causes a delay in the work being undertaken by the City's third party contractor(s) that results in a claim by the third party contractor(s) for costs, expenses and/or damages that are directly caused by such delay and are legally required to be paid by the City (each, a "Contractor Delay Claim"), the City may at its sole option:

- (a) tender the Contractor Delay Claim to Franchisee for defense and indemnification in accordance with (b) and Section 16; or

- (b) require that Franchisee reimburse the City for its share of the costs, expenses, and/or damages that are legally required to be paid by the City and attributable to Franchisee's delays to its third party contractor(s) as a direct result of the Contractor Delay Claim; provided that, if the City requires reimbursement by Franchisee under this Section 5.6(b), the City shall first give Franchisee written notice of the Contractor Delay Claim and give Franchisee the opportunity to work with the third party contractor(s) to resolve the Contractor Delay Claim for a period of not less than sixty (60) days prior to the City's payment of the Contractor Delay Claim.

Section 5.7 Franchisee will indemnify, hold harmless, and pay the costs of defending the City, in accordance with the provisions of Section 16, against any and all claims, suits, actions, damages, or liabilities for delays on City construction projects caused by or arising out of the

failure of Franchisee to remove or relocate its Facilities in a timely manner; provided, that Franchisee shall not be responsible for damages due to delays caused by circumstances beyond the control of Franchisee or the negligence, willful misconduct, or unreasonable delay of the City or any unrelated third party.

Section 5.8 Whenever any person shall have obtained permission from the City to use any Right-of-Way for the purpose of moving any building, Franchisee, upon thirty (30) days' written notice from the City, shall raise, remove, or relocate to another part of the Right-of-Way, at the expense of the person desiring to move the building, any of Franchisee's Facilities that may obstruct the removal of such building.

Section 5.9 If Franchisee fails, neglects, or refuses to remove or relocate its Facilities as directed by the City following the procedures outlined in Section 5.1 through Section 5.4 the City may perform such work or cause it to be done, and the City's costs shall be paid by Franchisee pursuant to Section 14.3 and Section 14.4.

Section 5.10 The provisions of this Section 5 shall survive the expiration or termination of this Franchise during such time as Franchisee continues to have Facilities in the Rights-of-Way.

Section 6 Undergrounding of Facilities.

Section 6.1 Except as specifically authorized by permit of the City, Franchisee shall not be permitted to erect poles or to run or suspend wires, cables or other facilities thereon, but shall lay such wires, cables or other facilities underground in the manner required by the City. Franchisee acknowledges and agrees that if the City does not require the undergrounding of its Facilities at the time of permit application, the City may, at any time in the future, require the conversion of Franchisee's aerial facilities to underground installation at Franchisee's expense; provided that the City requires all other wireline utilities, except electrical utilities but including the fiber network operated by the City, with aerial facilities in the area to convert such facilities to underground installation at the same time. Unless otherwise permitted by the City, Franchisee shall underground its Facilities in all new developments and subdivisions, and any development or subdivision where utilities, other than electrical utilities, are currently underground.

Section 6.2 Notwithstanding Section 6.1 above, Franchisee agrees that it will relocate its Facilities underground, regardless if other wireline telecommunications utilities relocate underground, if the City, or a third party, pays for the cost of the trenching and related excavation work, the installation of conduit acceptable to house telecommunications facilities, the back-fill of the trench, and the associated repavement and other restoration work. Franchisee agrees that in such situation, Franchisee will pay for its own costs related to the physical relocation of its aerial facilities underground and the incremental cost, if any, to the City of adding Franchisee's Facilities. This Section 6.2 shall not apply if all other wireline telecommunications utilities relocate underground.

Section 6.3 Whenever Franchisee places its Facilities underground it shall do so in the manner specified by the City, concurrently with and in the area of the other affected utilities. The location of any such relocated and underground utilities shall be approved by the City. The City may require Franchisee to install conduit and other underground Facilities in the same trench or location as another franchisee or permittee when such other franchisee or permittee is constructing or installing similar facilities at approximately the same time as Franchisee. In such case, Franchisee shall reimburse the other franchisee or permittee for its proportional share of the cost of construction and installation. Similarly, the City may require other franchisees or permittees to install conduit and other underground Facilities in the same trench or location as Franchisee when such Franchisee is constructing or installing similar facilities at approximately the same time as another permittee or franchisee. In such case, the other permittee or franchisee shall reimburse Franchisee for the other permittee's or franchisee's proportional share of the cost of construction and installation.

Section 6.4 To the extent Franchisee is providing Services to personal wireless services facilities, Franchisee shall adhere to the design standards for such personal wireless services facilities, and shall underground its Facilities and/or place its Facilities within the pole as may be required by such design standards. For the purposes of clarity, this Section 6.4 does not require undergrounding or interior placement of Facilities within the pole to the extent that the personal wireless services facilities are located on utility poles that have pre-existing aerial telecommunications facilities and provided such construction of Franchisee's Facilities continue to comply with Section 6.1 or Section 6.3.

Section 6.5 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, except as provided in this Section 6.5. Franchisee may remove any underground cable and other related facilities from the Right-of-Way that has been installed in such a manner that it can be removed without trenching or other opening of the Right-of-Way along the extension of cable to be removed, or if otherwise permitted by the City. Franchisee may remove any underground cable from the Rights-of-Way where reasonably necessary to replace, upgrade, or enhance its Facilities, or pursuant to Section 5. When the City determines, in the City's sole discretion, that Franchisee's underground Facilities must be removed in order to eliminate or prevent a hazardous condition, Franchisee shall remove the cable or conduit at Franchisee's sole cost and expense. Franchisee must apply and receive a permit, pursuant to Section 8.2, prior to any such removal of underground cable, conduit and other related facilities from the Right-of-Way and must provide as-built plans and maps pursuant to Section 7.1.

Section 6.6 The provisions of this Section 6 shall survive the expiration, revocation, or termination of this Franchise. Nothing in this Section 6 shall be construed as requiring the City to pay any costs of undergrounding any of the Franchisee's Facilities.

Section 7 Maps and Records.

Section 7.1 After underground construction is complete, Franchisee shall provide the City with accurate copies of as-built plans and maps stamped and signed by a professional land surveyor or engineer in a form and content acceptable to the Public Works Director or his/her designee. Following any aerial construction, Franchisee shall provide the City with accurate copies of as-built plans and maps prepared by Franchisee's design and installation contractors. These plans and maps shall be provided at no cost to the City, and shall include hard copies and digital files in Autocad or other industry standard readable formats that are acceptable to the City and delivered electronically. Further, Franchisee shall provide such maps within ten (10) days following a request from the City. Franchisee shall warrant the accuracy of all as-builts provided to the City.

Section 7.2 Within thirty (30) days of a written request from the Public Works Director, 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 taxes, including but not limited to sales, utility and/or telecommunications taxes, due the City in connection with the Franchisee's services and Facilities provided by the Franchisee have been properly collected and paid by the Franchisee.

Section 7.3 Books, records, maps, and other documents maintained by Franchisee with respect to its Facilities within the Rights-of-Way and which are reasonably necessary to demonstrate compliance with the terms of this Franchise, shall, after reasonable prior notice from the City, be made available for inspection by the City at reasonable times and intervals but no more than one time each calendar year or upon the City's reasonable belief that there has been a violation of this Franchise by Franchisee; provided, however, that nothing in this Section 7.3 shall be construed to require Franchisee to violate state or federal law regarding customer privacy, nor shall this Section 7.3 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 State or federal law, nothing in this Section 7.3 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; provided, however, 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.

Section 7.4 Franchisee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature; provided, however, Franchisee shall disclose such information to comply with a utility tax audit, in the event the City is permitted to charge fees as further described in Section 15.1, or as otherwise required in this Franchise. The City will not disclose such proprietary or confidential information to the City's department operating its fiber network unless such disclosure is authorized by Franchisee or subject to disclosure under Chapter 42.56 RCW. 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 such information is confidential and how it may be treated as such under State or federal law. In the event that the City receives a public records request under Chapter 42.56 RCW or similar law for the disclosure of information Franchisee has designated as confidential, trade secret, or

proprietary, the City shall promptly provide written notice of such disclosure so that Franchisee can take appropriate steps to protect its interests. Nothing in this Section 7.4 prohibits the City from complying with Chapter 42.56 RCW or any other applicable law 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 shall comply with any injunction or court order obtained by Franchisee that prohibits the disclosure of any such confidential records; however, in the event a higher court overturns such injunction or court order and such 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 such records as required hereunder within sixty (60) days of a request from the City.

Section 7.5 On an annual basis, upon thirty (30) days prior written notice, the City shall have the right to conduct an independent audit of Grantee's records reasonably related to the administration or enforcement of this Franchise and the collection of utility taxes, in accordance with GAAP. If the audit shows that tax payments have been underpaid by three percent (3%) or more, Grantee shall pay the total cost of the audit.

Section 8 Work in the Rights-of-Way.

Section 8.1 During any period of relocation, construction or maintenance, all work performed by Franchisee or its contractors shall be accomplished in a safe and professional manner, so to 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 barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or the laws of the State of Washington, including RCW 39.04.180 for the construction of trench safety systems. The provisions of this Section 7.5 shall survive the expiration or termination of this Franchise ordinance.

Section 8.2 Whenever Franchisee shall commence work in any public Rights-of-Way for the purpose of excavation, installation, construction, repair, maintenance, or relocation of its cable or equipment, it shall apply to the City for a permit to do so and, in addition, shall give the

City at least ten (10) working days prior notice (except in the case of an emergency) of its intent to commence work in the Rights-of-Way. The City shall only issue permits that are in compliance with Burlington Municipal Code and the City's Design and Construction Standards. During the progress of the work, the Franchisee shall not unnecessarily obstruct the passage or proper use of the Rights-of-Way, and all work by the Franchisee in the area shall be performed in accordance with applicable City standards and specifications. In no case shall any work commence within any Rights-of-Way without a permit, except as otherwise provided in this Franchise ordinance.

Section 8.3 If Franchisee shall at any time plan to make excavations in any area covered by this Franchise and as described in this Section 8.3, the Franchisee shall afford the City, upon receipt of a written request to do so, an opportunity to share such excavation, PROVIDED THAT:

- (a) Such joint use shall not unreasonably delay the work of the Franchisee causing the excavation to be made;
- (b) Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties; and
- (c) Franchisee may deny such request for safety reasons.

Section 8.4 Franchisee shall inform the City with at least sixty (60) days' advance written notice that it is constructing, relocating, or placing ducts or conduits in the Rights-of-Way and provide the City with an opportunity to request that Franchisee provide the City with additional duct or conduit and related structures necessary to access the conduit. Upon such request, the parties shall enter into a contract pursuant to RCW 35.99.070 and RCW 80.36.150. The contract rates to be charged should recover the incremental costs to the Franchisee, unless the City desires to make the additional duct or conduit and related access structures available to any other person or entity for the purposes of providing telecommunications or cable television service for hire, sale, or resale to the general public, in which case, the rates to be charged, shall recover at least the fully allocated costs of the Franchisee. The contract shall state both rates and the City shall, prior to construction, inform the Franchisee of the use, and any change in use, of

the requested duct or conduit and related access structures to determine the applicable rate to be paid by the City under the contract.

Section 8.5 Except for emergency situations, Franchisee shall give at least seven (7) days' prior notice of intended construction to residents in the affected area. Such notice shall contain the dates, contact number, nature and location of the work to be performed. At least twenty-four (24) hours prior to 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. Door hangers are permissible methods of notifications to residents. Franchisee shall make a good faith effort to comply with the property owner/resident's preferences, if any, on location or placement of underground installations (excluding aerial cable lines utilizing existing poles and existing cable paths), 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. Notwithstanding the above, nothing herein shall give Franchisee the right to enter onto private property without the permission of such private property owner, or as otherwise authorized by applicable law.

Section 8.6 Upon receipt of a permit (except in emergency situations), Franchisee may trim trees upon and overhanging on public ways, streets, alleys, sidewalks, and other public places of the City so as to prevent the branches of such trees from coming in contact with Franchisee's Facilities. The right to trim trees in this Section 8.6 shall only apply to the extent necessary to protect above ground Facilities and consistent with the requirements of Burlington Municipal Code Chapter 12.20. Franchisee shall ensure that its tree trimming activities protect the appearance, integrity, and health of the trees to the extent reasonably possible. Franchisee shall be responsible for all debris removal from such activities. All trimming shall be at the expense of Franchisee. Franchisee may contract for such services, however, any firm or individual so retained must first receive City approval prior to commencing such trimming. Nothing herein grants Franchisee any authority to act on behalf of the City, to enter upon any

private property, or to trim any tree or natural growth not owned by the City except to the extent it is necessary that Franchisee trims trees or vegetation upon, overhanging, or encroaching on public ways, streets, alleys, sidewalks, and other public places of the City so as to prevent such vegetation from coming in contact with Franchisee's Facilities. Franchisee shall be solely responsible and liable for any damage to any third parties' trees or natural growth caused by Franchisee's actions. Franchisee shall indemnify, defend and hold harmless the City, its employees or agents and elected or appointed officials from third-party claims of any nature arising out of any act or negligence of Franchisee with regard to tree and/or natural growth trimming, damage, and/or removal. Franchisee shall reasonably compensate the City or the property owner for any damage caused by trimming, damage, or removal by Franchisee. Except in an emergency situation, all tree trimming must be performed under the direction of an arborist certified by the International Society of Arboriculture, unless otherwise approved by the Public Works Director or his/her designee.

Section 8.7 Franchisee shall meet with the City and other franchise holders and users of the Rights-of-Way upon written notice as determined by the City, to schedule and coordinate construction in the Rights-of-Way. All construction locations, activities, and schedules shall be coordinated, as ordered by the City to minimize public inconvenience, disruption or damages.

Section 8.8 Franchisee shall maintain all above ground improvements that it places on City Rights-of-Way pursuant to this Franchise. In order to avoid interference with the City's ability to maintain the Right-of-Way, Franchisee shall provide a clear zone to meet City's Design and Construction Standards. If Franchisee fails to comply with this provision, and by its failure, property is damaged, then Franchisee shall be responsible for all damages caused thereby, including restoration provided that Franchisee shall not be responsible for damages caused by circumstances beyond the control of Franchisee or the gross negligence, willful misconduct, or unreasonable delay of the City or any unrelated third party.

Section 9 One Call Locator Service. Prior to doing any work in the Rights-of-Way, the Franchisee shall follow established procedures, including contacting the Utility Notification Center in Washington and shall comply with all applicable State statutes regarding the One Call Locator Service pursuant to Chapter 19.122 RCW. Further, upon request from a third party or

the City, Franchisee shall locate its Facilities consistent with the requirements of Chapter 19.122 RCW. The City shall not 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 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.

Section 10 Safety Requirements.

Section 10.1 Franchisee shall, at all times, employ professional care and shall install and maintain and use industry-standard methods for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public. All structures and all lines, equipment, and connections in, over, under, and upon the Rights-of-Ways, wherever situated or located, shall at all times be kept and maintained in a safe condition. Franchisee shall comply with all federal, State, and City safety requirements, rules, regulations, laws, and practices, and employ all necessary devices as required by applicable law during the construction, operation, maintenance, upgrade, repair, or removal of its Facilities. By way of illustration and not limitation, Franchisee shall also comply with the applicable provisions of the National Electric Code, National Electrical Safety Code, FCC regulations, and Occupational Safety and Health Administration (OSHA) Standards. Upon reasonable notice to Franchisee, the City reserves the general right to inspect the Facilities to evaluate if they are constructed and maintained in a safe condition.

Section 10.2 If an unsafe condition or a violation of Section 10.1 is found to exist, and becomes known to the City, the City agrees to give Franchisee written notice of such condition and afford Franchisee a reasonable opportunity to repair the same. If Franchisee fails to start to make the necessary repairs and alterations within the time frame specified in such notice (and pursue such cure to completion), then the City may make such repairs or contract for them to be made. All costs, including administrative costs, incurred by the City in repairing any unsafe conditions shall be borne by Franchisee and reimbursed to the City pursuant to Section 14.3 and Section 14.4.

Section 10.3 Additional safety standards include:

(a) Franchisee shall endeavor to maintain all equipment lines and facilities in an orderly manner, including, but not limited to, the removal of all bundles of unused cable on any aerial facilities.

(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) Any opening or obstruction in the Rights-of-Way or other public places made by Franchisee in the course of its operations shall be protected by Franchisee at all times by the placement of adequate barriers, fences, or boarding, the bounds of which, during periods of dusk and darkness, shall be clearly marked and visible.

Section 10.4 Stop Work Order. On notice from the City that any work is being performed contrary to the provisions of this Franchise, or in an unsafe or dangerous manner as determined by the City, or in violation of the terms of any applicable permit, laws, regulations, ordinances, or standards, the work may immediately be stopped by the City. The stop work order shall:

- (a) Be in writing;
- (b) Be given to the person doing the work or posted on the work site;
- (c) Be sent to Franchisee by overnight delivery;
- (d) Indicate the nature of the alleged violation or unsafe condition; and
- (e) Establish conditions under which work may be resumed.

Section 11 Work of Contractors and Subcontractors. Franchisee's contractors and subcontractors shall be licensed and bonded in accordance with State law and the City's ordinances, regulations, and requirements. Work by contractors and subcontractors are 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 law.

Section 12 Restoration after Construction.

Section 12.1 Franchisee shall, after installation, construction, relocation, maintenance, or repair of its Facilities, or after abandonment approved pursuant to Section 18, promptly remove any obstructions from the Rights-of-Way and restore the surface of the Rights-of-Way to at least the same condition the Rights-of-Way were in immediately prior to any such installation, construction, relocation, maintenance or repair, provided Franchisee shall not be responsible for any changes to the Rights-of-Way not caused by Franchisee or anyone doing work for Franchisee. The Public Works Director or his/her designee shall have final approval of the condition of such Rights-of-Way after restoration. All concrete encased survey monuments that have been disturbed or displaced by such work shall be restored pursuant to federal, state (such as Chapter 332-120 WAC), and local standards and specifications.

Section 12.2 Franchisee agrees to promptly complete all restoration work and to promptly repair any damage caused by 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. All work by Franchisee pursuant to this Franchise shall be performed in accordance with applicable City standards and warranted for a period of two (2) years.

Section 12.3 If conditions (e.g. weather) make the complete restoration required under Section 12 impracticable, Franchisee shall temporarily restore the affected Right-of-Way or property. Such temporary restoration shall be at Franchisee's sole cost and expense. Franchisee shall promptly undertake and complete the required permanent restoration when conditions no longer make such permanent restoration impracticable.

Section 12.4 In the event Franchisee does not repair a Right-of-Way or an improvement in or to a Right-of-Way within the time agreed to by the Public Works Director, or his/her designee, the City may repair the damage and shall be reimbursed its actual cost within sixty (60) days of submitting an invoice to Franchisee in accordance with the provisions of Section 14.3 and Section 14.4. In addition, and pursuant to Section 14.3 and Section 14.4, the City may bill Franchisee for expenses associated with the inspection of such restoration work. The failure by Franchisee to complete such repairs shall be considered a breach of this Franchise and is subject to remedies by the City including the imposition of damages consistent with Section 22.2.

Section 12.5 The provisions of this Section 12 shall survive the expiration or termination of this Franchise so long as Franchisee continues to have Facilities in the Rights-of-Way and has not completed all restoration to the City's standards.

Section 13 Emergency Work/Dangerous Conditions.

Section 13.1 In the event of any emergency in which any of Franchisee's Facilities located in or under any street endangers the property, life, health or safety of any person or if Franchisee's construction area is otherwise in such a condition as to immediately endanger the property, life, health or safety of any individual, Franchisee shall immediately take the proper emergency measures to repair its Facilities, to cure or remedy the dangerous conditions for the protection of property, life, health or safety of individuals without first applying for and obtaining a permit as required by this Franchise. However, this shall not relieve Franchisee from the requirement of obtaining any permits necessary for this purpose, and Franchisee shall apply for all such permits not later than the next succeeding day during which the Burlington City Hall is open for business. The City retains the right and privilege to cut or move any Facilities located within the Rights-of-Way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency.

Section 13.2 The City shall not be liable for any damage to or loss of Facilities within the Rights-of-Way as a result of or in connection with any public works, public improvements, construction, grading, excavation, filling, or work of any kind in the Rights-of-Way by or on behalf of the City, except to the extent directly and proximately caused by the gross negligence or willful acts of the City, its employees, contractors, or agents. The City shall further not be liable to Franchisee for any direct, indirect, or any other such damages suffered by any person or entity of any type as a direct or indirect result of the City's actions under this Section 13 except to the extent caused by the gross negligence or willful acts of the City, its employees, contractors, or agents.

Section 13.3 Whenever the construction, installation or excavation of Facilities conducted by Franchisee as authorized by this Franchise has caused or materially contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or endangers the public, an adjoining public place, street utilities or City property,

the Public Works Director may direct Franchisee, at Franchisee's own expense, to take reasonable action to protect the public, adjacent public places, City property or street utilities, and such action may include compliance within a prescribed time. In the event that Franchisee fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, before the City can timely contact Franchisee to request Franchisee effect the immediate repair, the City may enter upon the property and take such reasonable actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, or reasonable actions regarded as necessary safety precautions, and Franchisee shall be liable to the City for the costs thereof.

Section 14 Recovery of Costs.

Section 14.1 Franchisee shall pay a one-time fee for the actual administrative expenses incurred by the City that are directly related to the receiving and approving this Franchise pursuant to RCW 35.21.860, including the costs associated with the City's legal costs incurred in drafting and processing this Franchise, not to exceed Five Thousand Five Hundred Dollars (\$5,500.00). No construction permits shall be issued for the installation of Facilities authorized until such time as the City has received payment of this fee; further, this Franchise will not be deemed accepted without the payment of this fee. 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 such costs and expenses directly to the City in accordance with the provisions of Section 14.3.

Section 14.2 In addition to Section 14, Franchisee shall promptly reimburse the City in accordance with the provisions of Section 14.3 and Section 14.4 for any and all costs the City reasonably incurs in response to any emergency situation involving Franchisee's Facilities, to the extent said emergency is not the fault of the City. The City agrees to simultaneously seek

reimbursement from any franchisee or permit holder who caused or contributed to the emergency situation.

Section 14.3 Franchisee shall reimburse the City within sixty (60) days of submittal by the City of an itemized billing for reasonably incurred costs, itemized by project, 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 Public Ways. Such 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 Public Ways as the result of the presence of Franchisee's Facilities in the Public Ways. Such 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.

Section 14.4 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 said billing. At the City's option, the billing may be on an annual basis, but the City shall provide the Franchisee with the City's itemization of costs, in writing, at the conclusion of each project for information purposes.

Section 15 City's Reservation of Rights.

Section 15.1 Franchisee hereby warrants that its operations as authorized under this Franchise are those of a telephone business as defined in RCW 82.16.010, or service provider as defined in RCW 35.21.860. As a result, the City will not impose a Franchise fee under the terms of this Franchise, other than as described herein. The City hereby reserves its right to impose a Franchise fee on Franchisee if Franchisee's operations as authorized by this Franchise change such that the statutory prohibitions of RCW 35.21.860 no longer apply or, if statutory prohibitions on the imposition of such fees are removed. In either instance, the City also

reserves its right to require that Franchisee obtain a separate Franchise for its change in use. Nothing contained herein shall preclude Franchisee from challenging any such new fee or separate agreement under applicable federal, State, or local laws.

Section 15.2 Franchisee acknowledges that its operation with the City constitutes a telecommunication business subject to the utility tax imposed pursuant to the Burlington Municipal Code Chapter 5.12. Franchisee stipulates and agrees that certain of its business activities are subject to taxation as a telecommunication business and that Franchisee shall pay to the City the rate applicable to such taxable services under Burlington Municipal Code Chapter 5.12, and consistent with state and federal law. The parties agree however, that nothing in this Franchise shall limit the City's power of taxation as may exist now or as later imposed by the City. This provision does not limit the City's power to amend Burlington Municipal Code Chapter 5.12 as may be permitted by law.

Section 16 Indemnification.

Section 16.1 Franchisee releases, covenants not to bring suit, and agrees to indemnify, defend, and hold harmless the City, its officers, employees, agents, elected or appointed officials and representatives from any and all claims, costs, judgments, awards, or liability to any person, for injury or death of any person, or damage to property caused by or arising out of any acts or omissions of Franchisee, its agents, servants, officers, or employees in the performance of this Franchise and any rights granted within this Franchise.

Section 16.2 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 16. These indemnification obligations shall extend to claims that are not reduced to a suit and any claims that may be compromised, with Franchisee's prior written consent, prior to the culmination of any litigation or the institution of any litigation.

Section 16.3 The City shall promptly notify Franchisee of any claim or suit and request in writing that Franchisee indemnify the City. Franchisee may choose counsel to defend the City subject to this Section 16.3. City's failure to so 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. In the event that Franchisee refuses the tender of defense in any suit or any claim, as required pursuant to the indemnification provisions within this Franchise, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of Franchisee, Franchisee shall pay all of the City's reasonable costs for defense of the action, including all expert witness fees, costs, and attorney's fees, and including costs and fees incurred in recovering under this indemnification provision. If separate representation to fully protect the interests of both parties is necessary, such as a conflict of interest between the City and the counsel selected by Franchisee to represent the City, then upon the prior written approval and consent of Franchisee, which shall not be unreasonably withheld, the City shall have the right to employ separate counsel in any action or proceeding and to participate in the investigation and defense thereof, and Franchisee shall pay the reasonable fees and expenses of such separate counsel, except that Franchisee shall not be required to pay the fees and expenses of separate counsel on behalf of the City for the City to bring or pursue any counterclaims or interpleader action, equitable relief, restraining order or injunction. The City's fees and expenses shall include all out-of-pocket expenses, such as consultants and expert witness fees, and shall also include the reasonable value of any services rendered by the counsel retained by the City but shall not include outside attorneys' fees for services that are unnecessarily duplicative of services provided the City by Franchisee. Each party agrees to cooperate and to cause its employees and agents to cooperate with the other party in the defense of any such claim and the relevant records of each party shall be available to the other party with respect to any such defense.

Section 16.4 The parties acknowledge that this Franchise may be subject to RCW 4.24.115. Accordingly, 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 further specifically and expressly understood that the indemnification provided 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 16.5 Notwithstanding any other provisions of this Section 16, Franchisee assumes the risk of damage to its Facilities located in the Public Ways and upon City-owned property from activities conducted by the City, its officers, agents, employees, volunteers, elected and appointed officials, and contractors, except to the extent any such damage or destruction is caused by or arises from any grossly negligent, willful, or criminal actions on the part of the City, its officers, agents, employees, volunteers, or elected or appointed officials, or contractors. Franchisee releases and waives any and all such claims against the City, its officers, agents, employees, volunteers, or elected or appointed officials, or contractors. Franchisee further agrees to indemnify, hold harmless and defend the City against any claims for damages, including, but not limited to, business interruption damages, lost profits and consequential damages, brought by or under users of Franchisee's Facilities as the result of any interruption of service due to damage or destruction of Franchisee's Facilities caused by or arising out of activities conducted by the City, its officers, agents, employees, elected or appointed officials or contractors, except to the extent any such damage or destruction is caused by or arises from the gross negligence or any willful, or criminal actions on the part of the City, its officers, agents, employees, volunteers, or elected or appointed officials, or contractors.

Section 16.6 The provisions of this Section 16 shall survive the expiration, revocation, or termination of this Franchise.

Section 17 Insurance.

Section 17.1 Franchisee shall procure and maintain for so long as Franchisee has Facilities in the Public Ways, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of rights, privileges and authority granted to Franchisee, its agents representatives or employees. Franchisee shall require that every contractor and subcontractor maintain insurance coverage and policy limits consistent with this Section 17. Franchisee shall procure insurance from insurers with a current A.M. Best rating of not less than A-. Franchisee shall provide a copy of a certificate of insurance and additional insured endorsement to the City for its inspection at the time of or prior to acceptance of this Franchise, and such insurance certificate shall evidence a policy of insurance that includes:

(a) Automobile Liability insurance with limits no less than \$2,000,000 combined single limit per occurrence for bodily injury and property damage.

(b) Commercial General Liability insurance, written on an occurrence basis with limits no less than \$3,000,000 combined single limit per occurrence and \$5,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual; premises; operations; independent contractors; stop gap liability; personal injury; products and completed operations; broad form property damage; explosion, collapse and underground (XCU); and employer's liability.

(c) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington. No deductible is presently required for this insurance; and

(d) Umbrella liability policy with limits not less than \$10,000,000 per occurrence and in the aggregate.

Section 17.2 Any deductibles or self-insured retentions must be declared to and approved by the City. Such approval shall not be unreasonably withheld or delayed. The City acknowledges that Franchisee's current deductibles are subject to change based on business needs and the commercial insurance market. Payment of deductible or self-insured retention shall be the sole responsibility of Franchisee. Additionally, Franchisee shall pay all premiums for the insurance on a timely basis. Franchisee may utilize primary and umbrella liability insurance policies to satisfy the insurance policy limits required in this Section 18. Franchisee's umbrella liability insurance policy shall provide "follow form" coverage over its primary liability insurance policies.

Section 17.3 The insurance policies, with the exception of Workers' Compensation obtained by Franchisee shall name the City, its officers, elected or appointed officials, employees, agents, and volunteers ("Additional Insureds"), as an additional insured with regard to activities performed by or on behalf of Franchisee. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. Franchisee shall provide to the City prior to or upon acceptance either (1) a

true copy of the additional insured endorsement for each insurance policy required in this Section 17 and providing that such insurance shall apply as primary insurance on behalf of the Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the City of any certificate showing less coverage than required is not a waiver of Franchisee's obligations to fulfill the requirements. Franchisee's insurance shall be primary insurance with respect to the Additional Insureds, and the endorsement should specifically state that the insurance is the primary insurance. Any insurance maintained by the Additional Insureds shall be in excess of Franchisee's insurance and shall not contribute with it.

Section 17.4 Franchisee is obligated to notify the City of any cancellation or intent not to renew any insurance policy, required pursuant to this Section 17, thirty (30) days prior to any such cancellation. Within fifteen (15) days prior to said cancellation or intent not to renew, Franchisee shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section 17. Failure to provide the insurance cancellation notice and to furnish to the City replacement insurance policies meeting the requirements of this Section 17 shall be considered a material breach of this Franchise and subject to the City's election of remedies described in Section 22 below. Notwithstanding the cure period described in Section 22.2, the City may pursue its remedies immediately upon a failure to furnish replacement insurance.

Section 17.5 Franchisee's maintenance of insurance as required by this Section 18 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 17.6 As of the effective date of this Franchise, Franchisee is not self-insured. Should Franchisee wish to become self-insured at the levels outlined in this Franchise at a later date, Franchisee must provide the City with thirty (30) days advanced written notice of its intent to self-insure. In order to self-insure, Franchisee shall comply with the following: (i) provide a written attestation that Franchisee possesses the necessary amount of unencumbered financial assets to support the financial exposure of self-insurance, as evidenced by an outside auditor's

review of Franchisee's financial statements; (ii) the City, upon request, may review Franchisee's financial statements; (iii) Franchisee is responsible for all payments within the self-insured retention; and (iv) Franchisee assumes all defense and indemnity obligations as outlined in the indemnification section of this Franchise. These requirements may be modified by written amendment executed by both parties.

Section 18 Abandonment of Franchisee's Telecommunications Fiber Optic Cable Network.

Section 18.1 Upon the expiration, termination, or revocation of the rights granted under this Franchise, Franchisee shall remove all of its Facilities from the Public Ways within thirty (30) days of receiving written notice from the Public Works Director or his/her designee. 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 Public Works Director or his/her designee, and all necessary permits must be obtained prior to such work. Franchisee shall restore the Public Ways to at least the same condition the Public Ways were in immediately prior to any such installation, construction, relocation, maintenance or repair, provided Franchisee shall not be responsible for any changes to the Public Ways not caused by Franchisee or any person doing work for Franchisee. Franchisee shall be solely responsible for all costs associated with removing its Facilities.

Section 18.2 Notwithstanding Section 18.1 above, the City may permit Franchisee's improvements to be abandoned in place in such a manner as the City may prescribe. Upon permanent abandonment, and Franchisee's agreement to transfer ownership of the Facilities to the City, Franchisee shall submit to the City a proposal and instruments for transferring ownership to the City.

Section 18.3 Any Facilities which are not removed within one hundred (120) days of either the date of termination or revocation or the date the City issued a permit authorizing removal, whichever is later, shall automatically become the property of the City. Any costs incurred by the City in safeguarding such Facilities or removing the Facilities shall be reimbursed by Franchisee. Nothing contained within this Section 18 shall prevent the City from compelling Franchisee to remove any such Facilities through judicial action when the City has

not permitted Franchisee to abandon said Facilities in place. The provisions of this Section 18 shall survive the expiration, revocation, or termination of this Franchise.

Section 18.4 If Franchisee leases a structure in the Right-of-Way from a landlord and such landlord later replaces, removes or relocates the structure, for example by building a replacement structure, Franchisee shall remove or relocate its Facilities within the Public Ways within ninety (90) days of such notification from the landlord at no cost to the City.

Section 18.5 The provisions of this Section 18 shall survive the expiration, revocation, or termination of this Franchise and for so long as Franchisee has Facilities in Rights-of-Way.

Section 19 Bonds.

Section 19.1 Construction Performance Bond. Upon an application for a permit involving excavation, installation, construction, restoration or relocation of the Facilities and if required by the City, Franchisee shall furnish a performance bond ("Performance Bond") written by a corporate surety reasonably acceptable to the City equal to at least 120% of the estimated cost of constructing Franchisee's Facilities within the Rights-of-Way of the City prior to commencement of any such work or such other amount as deemed appropriate by the Public Works Director. The Performance Bond 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) submission of as-built drawings after completion of construction; and (6) timely payment and satisfaction of all claims, demands, or liens for labor, materials, or services provided in connection with the work which could be asserted against the City or City property. Said bond must remain in full force until the completion of construction, 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 Bond as described in Section 19.2.

Section 19.2 Maintenance Bond. Following excavation, installation, construction, restoration or relocation of the Facilities and if required by the City, Franchisee shall furnish a two (2) year maintenance bond ("Maintenance Bond"), or other surety acceptable to the City, at

the time of final acceptance of construction work on Facilities within the Rights-of-Way. The Maintenance Bond amount will be equal to ten percent (10%) of the documented final cost of the construction work. The Maintenance Bond in this Section 19.2 must be in place prior to City's release of the bond required by Section 19.1.

Section 19.3 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. In the event Franchisee shall fail to substantially comply with any one or more of the provisions of this Franchise following 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 hereinabove described. Franchisee specifically agrees that its failure to comply with the terms of this Section 19 shall constitute a material breach of this Franchise. The amount of the 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.

Section 20 Modification. The City and Franchisee hereby reserve the right to alter, amend, or modify the terms and conditions of this Franchise upon written agreement of both parties to such alteration, amendment or modification.

Section 21 Forfeiture and Revocation. If Franchisee willfully violates or fails to comply with any of the provisions of this Franchise, or through willful misconduct or gross negligence fails to heed or comply with any notice given Franchisee by the City under the provisions of this Franchise, then Franchisee shall, at the election of the Burlington City Council, forfeit all rights conferred hereunder and this Franchise may be revoked or annulled by the Council after a hearing held upon notice to Franchisee.

Section 22 Remedies to Enforce Compliance.

Section 22.1 The City may elect, without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling

Franchisee to comply with the provisions of the Franchise and to recover damages and costs incurred by the City by reason of Franchisee's failure to comply. In addition to any other remedy provided herein, the City reserves the right to pursue any remedy to compel or force Franchisee and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture or revocation for breach of the conditions herein. In addition to any other remedy provided in this Franchise, Franchisee reserves the right to pursue any remedy available at law or in equity to compel or require the City, its officers, employees, volunteers, contractors and other agents and representatives, to comply with the terms of this Franchise. Further, all rights and remedies provided herein shall be in addition to and cumulative with any and all other rights and remedies available to either the City or Franchisee. Such rights and remedies shall not be exclusive, and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy. Provided, further, that by entering into this Franchise, it is not the intention of the City or Franchisee to waive any other rights, remedies, or obligations as otherwise provided by law equity, or otherwise, and nothing contained here shall be deemed or construed to effect any such waiver. The parties agree that in the event a party obtains injunctive relief, neither party shall be required to post a bond or other security and the parties agree not to seek the imposition of such a requirement.

Section 22.2 If Franchisee shall violate, or fail to comply with any of the provisions of this Franchise, or should it fail to heed or comply with any notice given to Franchisee under the provisions of this Franchise, the City shall provide Franchisee with written notice specifying with reasonable particularity the nature of any such breach and Franchisee shall undertake all commercially reasonable efforts to cure such breach within thirty (30) days of receipt of notification. If the parties reasonably determine the breach cannot be cured within (30) thirty days, the City may specify a longer cure period, and condition the extension of time on Franchisee'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 Franchisee does not comply with the specified conditions, City may, at its discretion, (1) revoke this Franchise with no further notification, or (2) claim damages of Two Hundred Fifty Dollars (\$250.00) per day

against the Franchise Bond set forth in Section 19.3, or (3) pursue other remedies as described in Section 22.1 above.

Section 22.3 If the City shall violate, or fail to comply with any of the provisions of this Franchise, Franchisee shall provide the City with written notice specifying with reasonable particularity the nature of any such breach and the City shall undertake all commercially reasonable efforts to cure such breach within thirty (30) days of receipt of notification. If the parties reasonably determine the breach cannot be cured within (30) thirty days, the parties may agree to a longer cure period. If the breach is not cured within the specified time, or the City does not comply with the specified conditions, the Franchisee may, at its discretion, (1) terminate this Franchise, or (2) pursue other remedies as described in Section 22.1 above.

Section 23 Revocation. If Franchisee willfully violates or fails to comply with any material provisions of this Franchise, then at the election of the City after at least thirty (30) days written notice to Franchisee specifying the alleged violation or failure, the City may revoke all rights conferred and this Franchise may be revoked by the Burlington City Council after a hearing held upon such notice to Franchisee. Such hearing shall be open to the public and Franchisee and other interested parties may offer written and/or oral evidence explaining or mitigating such alleged noncompliance. This hearing does not give the right to either the City or Franchisee to conduct discovery, subpoena witnesses, or take depositions. Within thirty (30) days after the hearing, the Burlington City Council, on the basis of the record, will make the determination as to whether there is cause for revocation, whether the Franchise will be terminated, or whether lesser sanctions should otherwise be imposed. The Burlington City Council may in its sole discretion fix an additional time period to cure violations. If the deficiency has not been cured at the expiration of any additional time period or if the Burlington City Council does not grant any additional period, the Burlington City Council may by resolution declare the Franchise to be revoked and forfeited or impose lesser sanctions. If Franchisee appeals revocation and termination, such revocation may be held in abeyance pending judicial review by a court of competent jurisdiction, provided Franchisee is otherwise in compliance with the Franchise.

Section 24 Non-Waiver. 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 herein 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 25 City Ordinances and Regulations. Nothing herein shall 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. Section 253, the location, elevation, manner of construction and maintenance of Facilities by Franchisee and facilities of other similarly-situated franchisees, and Franchisee shall promptly conform with all such regulations, unless compliance would cause Franchisee to violate other requirements of law. In the event of a conflict between the provisions of this Franchise ordinance and any other generally applicable ordinance(s) enacted under the City's police power authority, such other ordinances(s) shall take precedence over the provisions set forth herein.

Section 26 Cost of Publication. The cost of publication of this Franchise ordinance shall be borne by Franchisee.

Section 27 Acceptance. Franchisee shall execute and return to the City its execution and acceptance of this Franchise in the form attached hereto as Exhibit A. In addition, Franchisee shall submit proof of insurance obtained and additional insured endorsement pursuant to Section 17 , any applicable construction Performance Bond pursuant to Section 19.1 and the Franchise Bond required pursuant to Section 19.3. The administrative fee pursuant to Section 14.2 is due within thirty days of receipt of the invoice from the City.

Section 28 Survival. All of the provisions, conditions, and requirements of Section 5, Section 6, Section 7.5, Section 12, Section 16, Section 18, Section 288, Section 299, and Section 40.2 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 the City's Franchise to Franchisee for the use of the Franchise Area, and any renewals or extensions thereof. All of the provisions, conditions, regulations and requirements contained in this Franchise ordinance shall further be binding upon the heirs, 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 heirs, successors and assigns equally as if they were specifically mentioned where Franchisee is named herein.

Section 29 Assignment.

Section 29.1 This Franchise may not be directly or indirectly assigned, transferred, or disposed of by sale, lease, merger, consolidation or other act of Franchisee, by operation of law or otherwise, unless approved in writing by the City, which approval shall not be unreasonably withheld, conditioned or delayed. The above notwithstanding, Franchisee may freely assign this Franchise in whole or in part to a parent, subsidiary, or affiliated entity, unless there is a change of control as described in Section 29.2 below, or for collateral security purposes. Franchisee shall provide prompt, written notice to the City of any such assignment. In the case of transfer or assignment as security by mortgage or other security instrument in whole or in part to secure indebtedness, such consent shall not be required unless and until the secured party elects to realize upon the collateral. For purposes of this Section 29, no assignment or transfer of this Franchise shall be deemed to occur based on the public trading of Franchisee's stock; provided, however, any tender offer, merger, or similar transaction resulting in a change of control shall be subject to the provisions of this Franchise.

Section 29.2 Any transactions that singularly or collectively result in a change of more than fifty percent (50%) of the: ultimate ownership or working control of Franchisee, ownership or working control of the Facilities, ownership or working control of affiliated entities having ownership or working control of Franchisee or of the Facilities, or of control of the capacity or bandwidth of Franchisee's Facilities, shall be considered an assignment or transfer requiring City approval. Transactions between affiliated entities are not exempt from City approval if there is a change in control as described in the preceding sentence. Franchisee shall promptly notify the City prior to any proposed change in, or transfer of, or acquisition by any other party of control of Franchisee. Every change, transfer, or acquisition of control of Franchisee shall cause a review of the proposed transfer. The City shall approve or deny such request for an assignment or transfer requiring City's consent within one-hundred twenty (120) days of a completed application from Franchisee, unless a longer period of time is mutually agreed to by the parties

or when a delay in the action taken by the City is due to the schedule of the City Council and action cannot reasonably be obtained within the one hundred twenty (120) day period. In the event that the City adopts a resolution denying its consent and such change, transfer, or acquisition of control has been affected, the City may revoke this Franchise, following the revocation procedure described in Section 21 above. The assignee or transferee must have the legal, technical, financial, and other requisite qualifications to own, hold, and operate Franchisee's Services. Franchisee shall reimburse the City for all direct and indirect costs and expenses reasonably incurred by the City in considering a request to transfer or assign this Franchise, in accordance with the provisions of Section 14.3 and Section 14.4, and shall pay the applicable application fee.

Section 29.3 Franchisee may, without prior consent from the City: (i) lease the Facilities, or any portion, to another person; (ii) grant an indefeasible right of user interest in the Facilities, or any portion, to another person; or (iii) offer to provide capacity or bandwidth in its Facilities to another person, provided further, that Franchisee shall at all times retain exclusive control over its Facilities and remain fully responsible for compliance with the terms of this Franchise, and Franchisee shall furnish, upon request from the City, a copy of any such lease or agreement, provided that Franchisee may redact the name, street address (except for City and zip code), Social Security Numbers, Employer Identification Numbers or similar identifying information, and other information considered confidential under applicable laws provided in such lease or agreement, and the lessee complies, to the extent applicable, with the requirements of this Franchise and applicable City codes. Franchisee's obligation to remain fully responsible for compliance with the terms under this Section 29 shall survive the expiration of this Franchise but only if and to the extent and for so long as Franchisee is still the owner or has exclusive control over the Facilities used by a third party.

Section 29.4 The parties acknowledge that as of the Effective Date of this Franchise, Franchisee is currently being acquired by Radiate Holdings, L.P. This transaction will ultimately lead to a change of control of Franchisee, with the ultimate parent company becoming Radiate Holdings, L.P. The Franchise and associated Services will continue to be held by Astound Broadband, LLC. The City hereby consents to this change of control. This consent shall not apply to any further change of control as described in Section 29.1 or Section 29.2 above.

Section 30 Extension. If this Franchise expires without renewal or is otherwise lawfully terminated or revoked, the City may, subject to applicable law:

(a) Allow Franchisee to maintain and operate its Facilities on a month-to-month basis, provided that Franchisee maintains insurance for such Facilities during such period and continues to comply with this Franchise; or

(b) The City may order the removal of any and all Facilities at Franchisee's sole cost and expense consistent with Section 18.

Section 31 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, shall be binding upon the parties upon execution of this Franchise.

Section 32 Eminent Domain. The existence of this Franchise shall not preclude the City from acquiring by condemnation in accordance with applicable law, all or a portion of the Franchisee's Facilities for the fair market value thereof. In determining the value of such Facilities, no value shall be attributed to the right to occupy the area conferred by this Franchise.

Section 33 Vacation. 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 such vacation. The City shall notify the Franchisee in writing not less than sixty (60) days before vacating all or any portion of any such area. If Franchisee has Facilities in the vacated portion of the Right-of-Way, the City shall use reasonable efforts to reserve an appurtenant easement for Franchisee within the vacated portion of the Right-of-Way within which Franchisee may continue to operate existing Facilities under the terms of this Franchise for the remaining period of the Initial Term or the Renewal Term set forth in Section 1.2. Notwithstanding the preceding sentence, the City shall incur no liability for failing to reserve such easement. The City may, after sixty (60) days written notice to the Franchisee, terminate this Franchise with respect to such vacated area.

Section 34 Notice. Any Notice or information required or permitted to be given to the parties under this Franchise agreement may be sent to the following addresses unless otherwise specified:

CITY OF BURLINGTON
833 S. Spruce Street
Burlington, WA 98233
Attn: City Clerk

FRANCHISEE:

Astound Broadband, LLC
401 Parkplace Center, Suite 500
Kirkland, WA 98033
Attn: General Counsel

After the closing of the transaction referenced
in Section 29.4 above, copies of notices shall
also be sent to:

Astound Broadband, LLC
650 College Road East, Ste, 3100
Princeton, NJ 08540
Attn: Regulatory Department

Astound Broadband, LLC
105 West First Street
South Boston, MA 02127
Attn: Regulatory Department

Section 35 Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance unless such invalidity or unconstitutionality materially alters the rights, privileges, duties, or obligations hereunder, in which event either party may request renegotiation of those remaining terms of this Franchise materially affected by such court's ruling.

Section 36 Compliance with All Applicable Laws. Each party agrees to comply with all applicable present and future federal, state and local laws, ordinances, rules and regulations. This Franchise is subject to ordinances of general applicability enacted pursuant to the City's police powers. Franchisee further agrees to remove all liens and encumbrances arising as a result of said use or work. Franchisee shall, at its own expense, maintain its Facilities in a safe condition, in good repair and in a manner reasonably 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. City reserves the right at any time to amend this Franchise to

conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare, or relating to roadway regulation, or a City ordinance enacted pursuant to such federal or state statute or regulation when such statute, regulation, or ordinance necessitates this Franchise be amended in order to remain in compliance with applicable laws, but only upon providing Franchisee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. Said amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, Franchisee makes a written request for negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within thirty (30) days of the call for negotiations either party may pursue any available remedies at law or in equity.

Section 37 Attorneys' Fees. If a suit or other action is instituted in connection with any controversy arising out of this Franchise, the prevailing party shall be entitled to recover all of its costs and expenses, including such sum as the court may judge as reasonable for attorneys' fees, costs, expenses and attorneys' fees upon appeal of any judgment or ruling.

Section 38 Hazardous Substances. Franchisee shall not introduce or use any hazardous substances (chemical or waste), in violation of any applicable law or regulation, 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, elected or appointed officials and volunteers harmless from and against any and all claims, costs and liabilities including reasonable attorneys' 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.

Section 39 Licenses, Fees and Taxes. Prior to constructing any Facilities, Franchisee shall obtain a business or utility license from the City. Franchisee shall pay promptly and before they become delinquent, all taxes on personal property and improvements owned or placed by Franchisee and shall pay all license fees and public utility charges relating to the conduct of its business, shall pay for all permits, licenses and zoning approvals, shall pay any other applicable

tax unless documentation of exemption is provided to the City and shall pay utility taxes and license fees imposed by the City.

Section 40 Miscellaneous.

Section 40.1 City and Franchisee respectively represent that its signatory is duly authorized and has full right, power and authority to execute this Franchise.

Section 40.2 This Franchise shall be construed in accordance with the laws of the State of Washington. Venue for any dispute related to this Franchise shall be the United States District Court for the Western District of Washington, or Skagit County Superior Court.

Section 40.3 Section captions and headings are intended solely to facilitate the reading thereof. Such captions and headings shall not affect the meaning or interpretation of the text herein.

Section 40.4 Where the context so requires, the singular shall include the plural and the plural includes the singular.

Section 40.5 Franchisee shall be responsible for obtaining all other necessary approvals, authorizations and agreements from any party or entity and it is acknowledged and agreed that the City is making no representation, warranty or covenant whether any of the foregoing approvals, authorizations or agreements are required or have been obtained by Franchisee by any person or entity.

Section 40.6 This Franchise may be enforced at both law and equity.

Section 40.7 Franchisee acknowledges that it, and not the City, shall be responsible for the premises and equipment's compliance with all marking and lighting requirements of the FAA and the FCC. Franchisee shall indemnify and hold the City harmless from any fines or other liabilities caused by Franchisee's failure to comply with such requirements. Should Franchisee or the City be cited by either the FCC or the FAA because the Facilities or the Franchisee's equipment is not in compliance and should Franchisee fail to cure the conditions of noncompliance within the timeframe allowed by the citing agency, the City may either terminate

this Franchise immediately on notice to the Franchisee or proceed to cure the conditions of noncompliance at the Franchisee's expense.

Section 40.8 This Franchise is subject to all current and future applicable federal, State and local laws, regulations and orders of governmental agencies as amended, including but not limited to the Communications Act of 1934, as amended, the Telecommunications Act of 1996, as amended and the Rules and Regulations of the FCC. Neither the City nor Franchisee waive any rights they may have under any such laws, rules or regulations.

Section 40.9 There are no third party beneficiaries to this Franchise.

Section 40.10 Neither party shall be required to perform any covenant or obligation in this Franchise, or be liable in damages to the other party, so long as the performance of the covenant or obligation is delayed, caused or prevented by a Force Majeure Event. A "Force Majeure Event" is defined for purposes of this Franchise as strikes, lockouts, sit-down strike, unusual transportation delays, riots, floods, washouts, explosions, earthquakes, fire, storms, weather (including inclement weather which prevents construction), acts of the public enemy, wars, terrorism, insurrections, and any other similar act of God event.

Section 41 Ordinance Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

STEVE SEXTON
MAYOR

ATTEST/AUTHENTICATED:

RENEE SINCLAIR
CITY CLERK

APPROVED AS TO FORM:

LEIF JOHNSON
CITY ATTORNEY

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

SUMMARY OF ORDINANCE NO. (201)

City of Burlington, Washington

On the ____ day of _____, 201__, the City Council of the City of Burlington passed Ordinance No. _____ (201__). A summary of the content of said Ordinance, consisting of the title, is provided as follows:

AN ORDINANCE OF THE CITY OF BURLINGTON, WASHINGTON, GRANTING TO _____ AND ITS AFFILIATES, SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND NONEXCLUSIVE FRANCHISE FOR TEN YEARS, TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR A TELECOMMUNICATIONS NETWORK, IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW CERTAIN DESIGNATED PUBLIC RIGHTS-OF-WAY OF THE CITY OF BURLINGTON, WASHINGTON.

The full text of this Ordinance will be mailed upon request.

CITY CLERK

FILED WITH THE CITY CLERK: _____, 201__
PASSED BY THE CITY COUNCIL: _____, 201__
PUBLISHED: _____, 201__
EFFECTIVE DATE: _____, 201__
ORDINANCE NO.: (201)

STATEMENT OF ACCEPTANCE

By: _____ Date: _____
Name: _____
Title: _____

MY COMMISSION EXPIRES: _____

SETTLEMENT AND RELEASE

This Settlement and Release is entered into between the City of Burlington, a Washington municipal corporation ("the City"), and Astound Broadband, LLC, d.b.a. Wave ("Wave") for the purposes stated below.

1. **Intent.** Black Rock Cable, Inc. ("Black Rock") entered into a franchise ("Franchise") for the provision of open video system ("OVS") services with the City as outlined in Burlington Ordinance No. 1453, which permitted it to establish an OVS in the City rights-of-way. Wave's parent merged with Black Rock pursuant to a merger agreement dated September 20, 2012 and, in connection with that transaction, Wave assumed all obligations, rights, and claims under the Franchise. For the duration of the Franchise, Black Rock and then later Wave paid to the City a franchise fee on gross revenues. However, Black Rock and then Wave claim to have at some point have discontinued the provision of OVS services and only provided telecommunications services within the City, though they continued to pay the franchise fee. The parties agree that telecommunications services are not subject to a franchise fee authorized by federal and state law on cable services. The parties desire to bring closure and fully resolve all claims involving previous franchise fee payments to the City by Wave and its predecessor in interest Black Rock. This Settlement and Release does not apply to any taxes collected from Wave or Black Rock pursuant to Burlington Municipal Code Chapter 5.12, if such taxes are applicable.

2. **Claim.** Wave may have a claim for overpayment of franchise fees following the discontinuance of OVS services. The City denies this claim. While each party reserves its position, the parties wish to reasonably resolve the dispute in accordance with the terms of this Settlement and Release.

3. **Settlement and Release.** In full release, compromise and settlement of any and all claims arising from the facts set forth above, the parties have agreed to an extension of the term of the negotiated new franchise ("2017 Franchise") from a five year term. The 2017 Franchise shall provide for an initial five-year term plus an auto renewal for another five-year period, subject to a party's right to request an amendment upon the end of the initial five year term. Accordingly, Wave hereby waives, relinquishes and releases all claims of any kind or nature arising from or out of the payment of the franchise fees in consideration of the extension described herein.

4. **Approval of Settlement and Release.** This Settlement and Release shall be fully executed and in effect upon each party's signature below. This Settlement and Release may be signed in counterparts, all of which together shall constitute a single agreement. The term requirements described in Section 3 above shall be incorporated into the renewal of the 2017 Franchise which will be executed by Wave and the City.

5. **Indemnity.** Each party agrees to indemnify, hold harmless and defend the other party, from and against any and all claims, actions, suits, liability, loss, cost, expenses and damages, including costs and attorneys' fees, for any claim that party brings against the other party related to this Settlement and Release or the facts giving rise to this Settlement and Release. Wave further represents that it has full authority to settle claims arising from the Franchise from its predecessor in interest Black Rock and agrees to indemnify, hold harmless and defend the City from any such claims brought against the City.

6. **Entire Agreement; Amendments.** This Settlement and Release contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements or

understandings among the parties with respect thereto. This Settlement and Release may be amended only by an agreement in writing signed by the both parties.

7. **Authority.** The individual signing below on behalf of Wave acknowledges, warrants, and represents that said individual has the authority and proper authorization to execute this Settlement and Release on behalf of Wave and does so freely with the intent to fully bind Wave to the provisions of this Settlement and Release.

IN WITNESS WHEREOF, the parties hereto have agreed to and executed this Settlement and Release effective as of the date of the last signature set forth below.

Astound Broadband, LLC d.b.a. Wave

By:

Date:_____

City of Burlington

By:

Date:_____



ITEM #: 5

CHECK ONE:

NEW. BUS. X

UNFINISHED BUS. _____

AGENDA ITEM

Council Date: November 9, 2017

Subject: Update to Burlington Municipal Code

Originator: Brad Johnson, Senior Planner

Leif Johnson, City Attorney

Attachments:

Public Hearing Required: YES () NO (X)

Notes:

Summary

The planning and legal departments will provide an update on the status of the municipal code update, pursuant to discussions and potential recommendations of the Planning Commission. Some general discussion of the proposed chapters may be held, depending on the outcome of the Planning Commission's upcoming meeting.

Recommendation

Discussion item only, no action required.



ITEM #: 6

CHECK ONE:

NEW BUS. X

OLD BUS.

AGENDA ITEM

Council Date: November 9, 2017 Subject: Letter of Understanding - I with IAFF Local 4111
Levon Yengoyan, Fire Chief

Attachments: Letter of Understanding - I Public Hearing Required: YES () NO (X)

SUMMARY

The City of Burlington and IAFF Local 4111 have identified necessary updates to the Collective Bargaining Agreement (CBA) in order to reflect compliance with federal law and the actual practices of the parties. This letter of understanding reflects amendments to Article 29 of the CBA pertaining to:

1. The adoption of FLSA requirements for the compensation of overtime hours and;
2. The manner of compensation for unused compensatory time.

RECOMMENDATION

Move to approve the proposed update to the collective bargaining agreement with IAFF Local 4111 and authorize the Mayor to sign Letter of Understanding – I.



BURLINGTON FIRE DEPARTMENT

PROUDLY SERVING THE CITY OF BURLINGTON

Letter of Understanding - I By and Between

The City of Burlington

And

Burlington Firefighters,
International Association of Fire Fighters Local 4111

Re: Overtime Calculation and Compensatory Time

The City of Burlington (also referred to as the City) and the Union (also referred to as Local 4111) have identified necessary updates to the Collective Bargaining Agreement (CBA) in order to reflect compliance with federal law and the actual practices of the parties. This Letter of Understanding reflects amendments to

1. The adoption of FLSA requirements for the compensation of overtime hours and;
2. The manner of compensation for unused compensatory time.

Therefore, the parties have discussed and agreed to the following amendments:

Article 29, Section 2 shall be amended as follows:

A Firefighter is required to seek approval ~~and if authorized by~~ the Chief or the Chief's designee to work *overtime* hours beyond ~~their~~*his/her* regularly scheduled hours of work. *Overtime hours* shall be compensated ~~at the rate of one and one half (1 1/2) times their base hourly rate in accordance with the Fair Labor Standards Act (FLSA)~~ except as defined in section 5 of this article (non-mandatory training). Such hours shall be rounded up or down to the nearest half hour and documented as such on the Firefighter's time sheet. ~~The hourly rate for the purpose of figuring approved overtime and buyback on compensatory time shall be calculated as follows~~ *Annual hours for the purpose of calculating overtime rates shall be as follows:*

For Day Shift employees working a 40 hour week, *2080 hours shall be used* ~~multiply the employee's base monthly salary by twelve (12) months and divide by 2080 hours.~~

For 24 hour employees assigned to work the 48/96 shift, *the annual hours listed in Article 15 shall be used* ~~multiply the employee's base monthly salary by twelve (12) months and divide by the annual hours as listed in Article 15.~~



BURLINGTON FIRE DEPARTMENT

PROUDLY SERVING THE CITY OF BURLINGTON

Article 29, Section 3 shall be amended as follows:

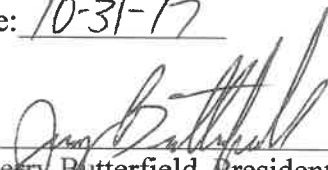
Overtime shall be compensated in pay or, at the employee's option, as compensatory time off. Compensatory time off hours can be accrued up to 48 hours per calendar year but must be used within the same calendar year. ~~Unused compensatory time not used by the end of the year shall be paid out as overtime.~~ *Unused compensatory time off hours shall be paid out at regular wage upon the employee's request. Any accrued compensatory time off hours not used by the end of the calendar year shall be paid out at regular wage.* Compensatory time off requests will be scheduled at the discretion of the Fire Chief or his or her designee and will not be unreasonably withheld.

Burlington Firefighters
I.A.F.F. Local #4111

City of Burlington

Date: 10-31-17

Date: _____

By: 
Jerry Butterfield, President
Burlington Firefighters,
IAFF Local #4111

By: _____
Steve Sexton, Mayor
City of Burlington

PLAT OF MAIBEN GLEN DIVISIONS 1 AND 2

SURVEY DESCRIPTION

PARCEL "A" SKAGIT COUNTY ASSESSOR'S PARCEL NO. P-62111
THE WEST 30.50 FEET (AS MEASURED PERPENDICULAR TO THE WEST LINE) OF THE FOLLOWING DESCRIBED TRACT:
THE NORTH 1/2 OF THE EAST 1/2 LESS THE WEST 12 FEET THEREOF OF LOT 63, PLAT OF THE BURLINGTON ACREAGE PROPERTY, AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON.
PARCEL "B" SKAGIT COUNTY ASSESSOR'S PARCEL NO. P-132604
THE NORTH 1/2 OF THE EAST 1/2 LESS THE WEST 12 FEET THEREOF OF LOT 63, PLAT OF THE BURLINGTON ACREAGE PROPERTY, AS PER PLAT RECORDED IN VOLUME 1 OF PLATS, PAGE 49, RECORDS OF SKAGIT COUNTY, WASHINGTON.
EXCEPT THE WEST 30.50 FEET (AS MEASURED PERPENDICULAR TO THE WEST LINE) THEREOF.
ALL OF THE ABOVE BEING SUBJECT TO AND TOGETHER WITH EASEMENTS, RESERVATIONS, RESTRICTIONS, COVENANTS, LIENS, LEASES, COURT CAUSES AND OTHER INSTRUMENTS OF RECORD.
ALL OF THE ABOVE SITUATE IN THE CITY OF BURLINGTON, COUNTY OF SKAGIT, STATE OF WASHINGTON.

TREASURER'S CERTIFICATE

THIS IS TO CERTIFY THAT ALL TAXES HERE BEFORE LEVIED AND WHICH HAVE BECOME A LIEN UPON THE LANDS HEREIN DESCRIBED HAVE BEEN FULLY PAID AND DISCHARGED ACCORDING TO THE RECORDS OF MY OFFICE UP TO AND INCLUDING THE YEAR OF 20__
THIS DAY OF _____ 20__

SKAGIT COUNTY TREASURER

DEPUTY

AUDITOR'S CERTIFICATE

FILED FOR RECORD AT THE RESIDENCE OF LISBER & ASSOCIATES, PLLC.

COUNTY AUDITOR

DEPUTY

CITY TREASURER'S CERTIFICATE

I HEREBY CERTIFY THAT THERE ARE NO DELINQUENT SPECIAL ASSESSMENTS AND ALL SPECIAL ASSESSMENTS ON ANY OF THE PROPERTY HEREIN CONTAINED DEDICATED AS STREETS, ALLEYS, OR FOR OTHER PUBLIC USE ARE PAID IN FULL.
THIS DAY OF _____ 20__

CITY TREASURER'S CERTIFICATE

APPROVALS
EXAMINED AND APPROVED THIS DAY OF _____ 20__

CITY ENGINEER

APPROVED BY THE COUNCIL OF THE CITY OF BURLINGTON
WASHINGTON, THIS DAY OF _____ 20__

MAYOR

ATTEST, CITY CLERK

EXAMINED AND FOUND TO BE IN CONFORMITY WITH APPLICABLE ZONING AND OTHER LAND USE CONTROLS AND APPROVED THIS DAY OF _____ 20__

BURLINGTON PLANNING DIRECTOR

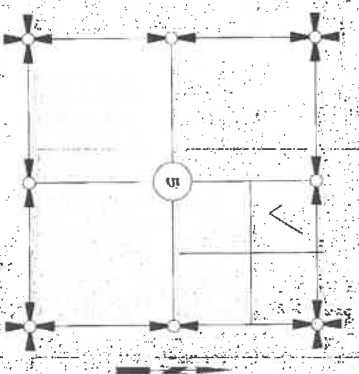
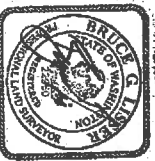
SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAT OF MAIBEN GLEN DIVISIONS 1 AND 2 IS BASED ON A SURVEY CONDUCTED BY ME OR UNDER MY SUPERVISION AND THAT THE COURSE AND DISTANCES ARE SHOWN CORRECTLY ON THE GROUND AND THAT I HAVE COMPLIED WITH THE PROVISIONS OF THE STATUTES AND PLATTING REGULATIONS OF THE CITY OF MOUNT VERNON.

BRUCE A. LISBER, P.L.S. CERTIFICATE NO. 22960

DATE Oct 27, 2011

BRUCE A. LISBER, P.L.S.
200 MILWAUKEE PO BOX 100
MOUNT VERNON WA 98273
PHONE: (360) 419-7442
FAX: (360) 419-0561
E-MAIL: BRUCE@LISBER.COM



SHEET 1 OF 6 DATE 07/11/11

SURVEY IN A PORTION OF GOVERNMENT LOT 2 SECTION 5 T. 34 N. R. 4 E. N4. SKAGIT COUNTY WASHINGTON FOR: BURLINGTON ONE, INC. LISBER & ASSOCIATES, PLLC SCALE: INCHES TO FEET MERIDIAN ASSIGNED SURVEYING & LAND-USE CONSULTATION MOUNT VERNON WA 98273 360-419-7442 DWS: 11-054 PF

PLAT OF MAIBEN GLEN DIVISIONS 1 AND 2

VOTES

- [illegible]

CHARTER DEVELOPER: BURLINGTON ONE, INC.

22. OWNER/DEVELOPER: ... PO BOX 2231
EVERETT WA 98213

PROPERTY RECORDS PARCEL NOS. P-62117 AND P-132684

23. COVENANTS, CONDITIONS, RESTRICTIONS FOR THIS FLAT HAS BEEN PREVIOUSLY RECORDED UNDER AUDITOR'S FILE NUMBER 201306040050.

24. NO DIRECT ACCESS TO SKAGIT STREET SHALL BE ALLOWED FROM ANY LOT IN THIS PLAT.

MINIMUM LOT AREA: 7600 SQ FT

26. ALL DEVELOPMENT SHALL COMPLY WITH APPLICABLE BURLINGTON MUNICIPAL CODE REQUIREMENTS

27. CONDITIONS OF APPROVAL PER CITY OF BURLINGTON MINUTES OF PLANNING COMMISSION DATED MAY 20, 2015:

1. EACH NEW HOME SHALL HAVE LAWN PLANTED, SHRUBS ADJACENT TO THE FRONT PORCH AND AT LEAST ONE TREE PER LOT PRIOR TO SALE OR OCCUPANCY.

M. DESIGN REVIEW SHALL BE REQUIRED PRIOR TO ISSUANCE OF OCCUPANCY.

BUILDING PERMITS, TO INSURE THAT THE DEVELOPMENT PRESENTS AN ATTRACTIVE BLOCK FRONT THAT MINIMIZES THE VISUAL IMPACT OF ROWS OF GARAGE DOORS.

N. NO BOATS OR RV PARKING IN THE FRONT LOT. ALL PROVISIONS SHALL BE MADE FOR GUEST PARKING.

U. LOT 7 IN PHASE I WILL BE LIMITED TO ONE STORY HOME.

28. LOTS 11-20 (INCLUSIVE) WILL REQUIRE INDIVIDUAL ON SITE SEWAGE GRINDER PUMPS AND TANKS. PRIOR TO THE

APPROVAL OF BUILDING PERMITS FOR SAID LOTS, PLANS AND SPECIFICATIONS FOR SAID GRINDER PUMPS AND TANKS SHALL BE PROVIDED TO AND APPROVED BY THE BURLINGTON

SHALL BE THE DESIGNER OF THE PROJECT. THE DESIGNER SHALL BE A PROFESSIONAL CIVIL ENGINEER. SAID GRINDER PUMPS AND TANKS SHALL BE INSTALLED AND INSPECTED BY THE BURLINGTON CITY ENGINEER PRIOR TO FINAL OCCUPANCY.

2a. THE OWNERS OF LOTS 11-21 (INCLUSIVE) SHALL BE RESPONSIBLE FOR THE GRINDER PRIOR TO FINEAL 00001 AND

FOR MAINTAINING, REPAIRING AND OR REPLACING THE SAME, AS WELL AS ALL COSTS AS AND TANKS INSTALLED ON SAID LOTS AS WELL AS ALL COSTS AS RESPONSIBLE THEREOF. THE CITY OF BURLINGTON SHALL NOT BE RESPONSIBLE FOR REPLACEMENT, REPAIR OR REPLACEMENT.

OWNERSHIP, OPERATION, MAINTENANCE, REPAIR, OR REPLACEMENT OF ANY OF THE SAID GRINDER PUMPS AND TANKS.

30. AN EASEMENT FOR A BIO-RETENTION AND STORM WATER
AREA WAS RECORDED UNDER SKAGIT COUNTY AUDITOR'S FILE
NO 201710050013 FOR THE BENEFIT OF THE LOTS WITHIN THIS SUB

31. A MINIMUM OF ONE STREET TREE SHALL BE PLANTED IN FRONT OF EACH LOT PRIOR TO FINAL OCCUPANCY APPROVAL. PROPERTY

SHALL BE RESPONSIBLE FOR MAINTAINING SAID STREET TREES. EACH LOT OWNER SHALL BE RESPONSIBLE FOR MAINTAINING SAID STREET TREES. DISEASED, DYING OR DANGEROUS STREET TREES MAY BE REMOVED WITHOUT APPROVAL BY THE CITY OF BURLINGTON PROVIDED THE

... WRITTEN APPROVAL OF THE SUBMITTER IMMEDIATELY REPLACED WITH AN EQUIVALENT TREE SPECIES.

100

100

100

100

100

8

100

[illegible]

Journal of Management Education 30(6)p. 789-804
© The Author(s) 2006
Reprints and permissions:
<http://www.sagepub.com/journalsPermissions.nav>



Subject 3 of 6

41-62-01

DATE: 10/27/17

SURVEY IN A PORTION OF
GOVERNMENT LOT 2
SECTION 5, T. 34 N., R. 4 E., W. 11 N.,
SKAGIT COUNTY, WASHINGTON
FOR BURLINGTON ONE INC.

FB:	PS:	LISSEY & ASSOCIATES, PLLC SURVEYING & LAND-USE CONSULTANTS 3160 41st ST. N.E. ALBUQUERQUE, NM 87110 505-261-7443	SCALE: DRAW: 17-054.FP
-----	-----	--	---------------------------

PLAT OF MAIBEN GLEN DIVISIONS 1 AND 2

OWNERS CONSENT AND DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT BURLINGTON ONE, INC., A WASHINGTON CORPORATION AND AMBLESIDE LENDING, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, AND RDH PROPERTIES, LLC, A WASHINGTON LIMITED LIABILITY COMPANY, IN THE SEVERAL TRACTS OF LAND HEREBY PLATTED, DECEDENT AND THE USE THEREOF FOR ALL PUBLIC PURPOSES CONSISTENT WITH THE USE THEREOF FOR PUBLIC HIGHWAY AND NECESSARY ACCESS FOR CUTS AND FILLS UPON THE LOTS AND BLOCKS SHOWN HEREON IN THE ORIGINAL REASONABLE GRADING OF ALL SUCH STREETS AND AVENUES SHOWN HEREON.

IN WITNESS WHEREOF, THE OWNERS AND SAID CORPORATION HAVE CAUSED THEIR SIGNATURES AND CORPORATE NAME TO BE HEREBY RECORDED AND ITS CORPORATE SEAL TO BE HEREBY AFFIXED THIS _____ DAY OF _____, 20____.

BURLINGTON ONE, INC.
A WASHINGTON CORPORATION

BY: _____
TITLE: _____

BY: _____
TITLE: _____
AMBLESIDE LENDING, LLC,
A WASHINGTON LIMITED LIABILITY COMPANY

BY: _____
TITLE: _____
RDH PROPERTIES, LLC,
A WASHINGTON LIMITED LIABILITY COMPANY

BY: _____
TITLE: _____

ACKNOWLEDGEMENTS

STATE OF WASHINGTON
COUNTY OF _____

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT THAT HE/SHE/IT/WE HAS/ARE AUTHORIZED TO EXECUTE OF THIS INSTRUMENT AND ACKNOWLEDGE IT AS THE LIMITED LIABILITY COMPANY, TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED: _____

SIGNATURE _____
NOTARY PUBLIC _____
MY APPOINTMENT EXPIRES _____
RESIDING AT _____

STATE OF _____
COUNTY OF _____

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT THAT HE/SHE/IT/WE HAS/ARE AUTHORIZED TO EXECUTE OF THIS INSTRUMENT AND ACKNOWLEDGE IT AS THE LIMITED LIABILITY COMPANY, TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED: _____

SIGNATURE _____
NOTARY PUBLIC _____
MY APPOINTMENT EXPIRES _____
RESIDING AT _____

STATE OF _____
COUNTY OF _____

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT THAT HE/SHE/IT/WE HAS/ARE AUTHORIZED TO EXECUTE OF THIS INSTRUMENT AND ACKNOWLEDGE IT AS THE LIMITED LIABILITY COMPANY, TO BE THE FREE AND VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

DATED: _____

SIGNATURE _____
NOTARY PUBLIC _____
MY APPOINTMENT EXPIRES _____
RESIDING AT _____



SHEET 2 OF 6		DATE: 12-27-17
SURVEY IN A PORTION OF GOVERNMENT LOT 2 SECTION 5, T. 34 N., E. 4 W. SKAGIT COUNTY, WASHINGTON FOR: BURLINGTON ONE, INC.		
FB	PG	SCALE
MERIDIAN ASSUMED	1:1000	1"=100'

PLAT OF MAIBEN GLEN DIVISIONS 1 AND 2

PUD EASEMENT PROVISIONS

EASEMENT TO PUBLIC UTILITY DISTRICT NO. 1, IF ANY, AS SHOWN HEREON, GRANTED TO PUBLIC UTILITY DISTRICT NO. 1 OF SKAGIT COUNTY, WASHINGTON, A MUNICIPAL CORPORATION, ITS SUCCESSORS OR ASSIGNS, THE PERPETUAL RIGHT, PRIVILEGE, AND AUTHORITY ENABLING THE DISTRICT TO DO ALL THINGS NECESSARY OR PROPER IN THE CONSTRUCTION AND MAINTENANCE OF A WATER LINE, LINES OR RELATED FACILITIES, INCLUDING THE RIGHT TO EXCAVATE, CUT, OPERATE, MAINTAIN, INSPECT, IMPROVE, REPAIR, REPLACE, ALTER, REPLACE, REPAIR, OR LINES OR RELATED FACILITIES, TO LOCATE AT ANY TIME ANY NECESSARY APPURTENANCES FOR THE TRANSPORTATION OF WATER OR OTHER SIMILAR PUBLIC SERVICES OVER, ACROSS, ALONG, IN AND UNDER THE LANDS AS SHOWN ON THIS PLAT TOGETHER WITH THE RIGHT OF INGRESS TO AND EGRESS FROM SAID LANDS ACROSS ADJACENT LANDS OF THE GRANTOR, ALSO, THE RIGHT TO CUT, BRUSH AND/OR TRIM ALL BRUSH OR OTHER GROWTH STANDING OR LIEING UPON THE LANDS OF THE GRANTOR WHICH IN THE GRANTOR'S JUDGMENT CONSTITUTES A MENACE OR DANGER TO THE GRANTOR'S LANDS, TO PERSONS OR PROPERTY BY THE GRANTOR, OR TO THE GRANTOR'S LANDS, THE GRANTOR AGREES THAT TITLE TO ALL BRUSH, OTHER VEGETATION, AND LANDS TRIMMED, CUT, AND REMOVED FROM THE EASEMENT PURSUANT TO THIS AGREEMENT IS VESTED IN THE DISTRICT.

GRANTOR, ITS HEIRS, SUCCESSORS OR ASSIGNS HEREBY CONVEYS AND AGREES NOT TO CONSTRUCT OR PERMIT TO BE CONSTRUCTED STRUCTURES OF ANY KIND ON THE EASEMENT AREAS AND NOT TO WRITTEN APPROVAL OF THE GRANTOR, THE DISTRICT AND ALL OTHER GRANTOR SHALL CONDUCT ITS (THEIR) PROPERTY SO AS NOT TO INTERFERE WITH OR OBSTRUCT OR ENDANGER THE USEFULNESS OF ANY INTERESTS OR OTHER FACILITIES, NOW OR HEREFTER MAINTAINED UPON THE EASEMENT OR IN ANY WAY INTERFERE WITH, OBSTRUCT OR ENDANGER THE DISTRICT'S USE OF THE EASEMENT.

UTILITIES AND SIDEWALK EASEMENT

AN EASEMENT IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF BURLINGTON, PUBLIC UTILITY DISTRICT NO. 1 OF SKAGIT COUNTY, PUEB SOUND ENERGY CASCADE, INC., AND CONCAST CORPORATION, FRONTIER COMMUNICATIONS, INC., AND CONCAST CORPORATION, FOR THE CONSTRUCTION, OPERATION, MAINTENANCE AND REPAIR OF THE EXTERIOR TEN (10) FEET OF FRONT BOUNDARY LINE OF ALL LOTS AND TRACTS AS SHOWN ON THE FACE OF THIS PLAT, OR OTHER AREAS AS NOTED, IN WHICH TO INSTALL, LAY, CONSTRUCT, REPAIR, OPERATE, MAINTAIN AND REMOVE SIDEWALKS, UTILITY SYSTEMS, LINES, FIXTURES AND APPURTENANCES ATTACHED THERETO, FOR THE PURPOSE OF PROVIDING PEDESTRIAN ACCESS AND UTILITY SERVICE TO THE SUBDIVISION AND OTHER TRACTS AT ALL TIMES WITH THE RIGHT TO ENTER UPON THE EASEMENT AT ALL TIMES FOR THE PURPOSES OF THE EASEMENT, AND THE GRANTOR AGREES TO HOLD THE EASEMENT FOR ALL NECESSARY DAMAGE IT CAUSED TO ANY REAL PROPERTY OWNER IN THE SUBDIVISION BY THE EXERCISE OF RIGHTS AND PRIVILEGES HEREIN GRANTED.

PRIVATE DRAINAGE EASEMENT AND MAINTENANCE RESPONSIBILITY

AN EASEMENT FOR THE PURPOSE OF CONVERTING ON-SITE STORMWATER RUNOFF IS HEREBY GRANTED IN FAVOR OF ALL ABUTTING LOT OWNERS IN THE AREAS DESIGNATED AS PRIVATE DRAINAGE EASEMENTS. THE REGULAR MAINTENANCE OF PRIVATE DRAINAGE FACILITIES ESTABLISHED AND GRANTED HEREIN SHALL BE THE RESPONSIBILITY OF THE COSTS THEREOF SHALL BE THE PROPERTY BY, THE PRESENT AND FUTURE OWNERS, SUCCESSORS AND ASSIGNS, AND THEIR HEIRS, SUCCESSORS AND ASSIGNS. THE EASEMENT SHALL INCLUDE AT A MINIMUM ANNUAL INSPECTION OF THE STORMWATER DRAINAGE SYSTEM, AND MAINTENANCE FREQUENCIES AND THRESHOLD PER THE ATTACHED FACILITY MAINTENANCE STANDARDS AS SPECIFIED.

THE CITY OF BURLINGTON IS HEREBY GRANTED THE PERPETUAL RIGHT OF ENTRY ACROSS DRAINAGE EASEMENTS TO CONDUCT INSPECTION OF THE STORMWATER DRAINAGE SYSTEMS OF ROUTINE OF THE GRANTOR AND ASSIGNORS DRAINAGE FACILITIES AND EMERGENCY INSPECTION OF PURPOSES AT ITS OWN DISCRETION. THE GRANTOR, OWNERS, AND ANY PERSON HAVING ANY PRESENT OR SUBSEQUENT OWNERSHIP INTEREST IN THE PROPERTIES, AND THEIR SUCCESSORS AND ASSIGNS OF OWNERS, HEREBY AGREES TO HOLD THE CITY, ITS OFFICERS, EMPLOYEES AND AGENTS HARMLESS IN ALL RESPECTS FROM ANY AND ALL CLAIMS FOR DAMAGES WHICH MAY BE ASSERTED NOW OR IN THE FUTURE TO ADJACENT PROPERTY OWNERS BY REASON OF CONSTRUCTION, OPERATION AND MAINTENANCE OF THE SAID DRAINAGE SYSTEM.

SURVEY DESCRIPTION	
LOT 1 834 KATELYN COURT	8,264 SQ FT
LOT 2 835 KATELYN COURT	7,756 SQ FT
LOT 3 842 KATELYN COURT	7,628 SQ FT
LOT 4 846 KATELYN COURT	8,539 SQ FT
LOT 5 850 KATELYN COURT	8,866 SQ FT
LOT 6 881 KATELYN COURT	8,282 SQ FT
LOT 7 885 KATELYN COURT	8,282 SQ FT
LOT 8 889 KATELYN COURT	8,282 SQ FT
LOT 9 893 KATELYN COURT	8,282 SQ FT
LOT 10 841 KATELYN COURT	7,743 SQ FT
LOT 11 834 BRIGHTON COURT	8,411 SQ FT
LOT 12 825 BRIGHTON COURT	7,761 SQ FT
LOT 13 832 BRIGHTON COURT	7,604 SQ FT
LOT 14 836 BRIGHTON COURT	8,519 SQ FT
LOT 15 840 BRIGHTON COURT	7,778 SQ FT
LOT 16 821 BRIGHTON COURT	8,282 SQ FT
LOT 17 825 BRIGHTON COURT	8,414 SQ FT
LOT 18 829 BRIGHTON COURT	7,727 SQ FT
LOT 19 833 BRIGHTON COURT	8,441 SQ FT
LOT 20 837 BRIGHTON COURT	8,441 SQ FT



SHEET 2 OF 6 DATE 10/11/17

SURVEY IN A PORTION OF
GOVERNMENT LOT 2
SECTION 5, T. 34 N., R. 4 E., 1/4M.
SKAGIT COUNTY, WASHINGTON
FOR: BURLINGTON ONE, INC.

FB: LISSER & ASSOCIATES, PLLC SCALE:
PS: 1"=40' HORIZONTAL
MERIDIAN: ASSUMED
DRAWN: 11-14-17
DATE: 11-09-17

PLAT OF MAIBEN GLEN DIVISIONS 1 AND 2

HELD MOUNT IN CASE (2006)

RIO VISTA AVE

HELD MOUNT IN CASE (2006)

1336.02' 1336.02' 1336.02'

FIRST ADDITION TO BURLINGTON, SKAGIT CO., WASH.
VOL. 3 PG. 11
BLOCK 125



SHARON ST

PROJECT CENTERLINE
B. M. OF BURLINGTON ACREAGE

PARCEL 'B'
P-152864

PARCEL 'A'
P-152864

BURLINGTON ACREAGE PROPERTY

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'

TO NORTH LINE HOMESTEAD
525.15'



HELD MOUNT IN CASE
PER PREVIOUS SURVEYS
(SEE NOTE NO. 3)

HELD PER PLAT OF
UNASSER TRACTS



SHEET 5 OF 6

DATE: 10/05/17

SURVEY IN A PORTION OF
GOVERNMENT LOT 2
SECTION 5, T. 84 N. R. 4 E. 4M
SKAGIT COUNTY, WASHINGTON
FOR: BURLINGTON ONE, INC.

FB: LISTER & ASSOCIATES, PLLC
FB: SURVEYING & LAND-USE CONSULTATION
FB: MERIDIAN, ASSURED MOUNT VERNON, WA 98275
FB: SCALE: 1" = 80'
FB: DING: IT-094 FP

HELD MOUNT IN CASE (2006)

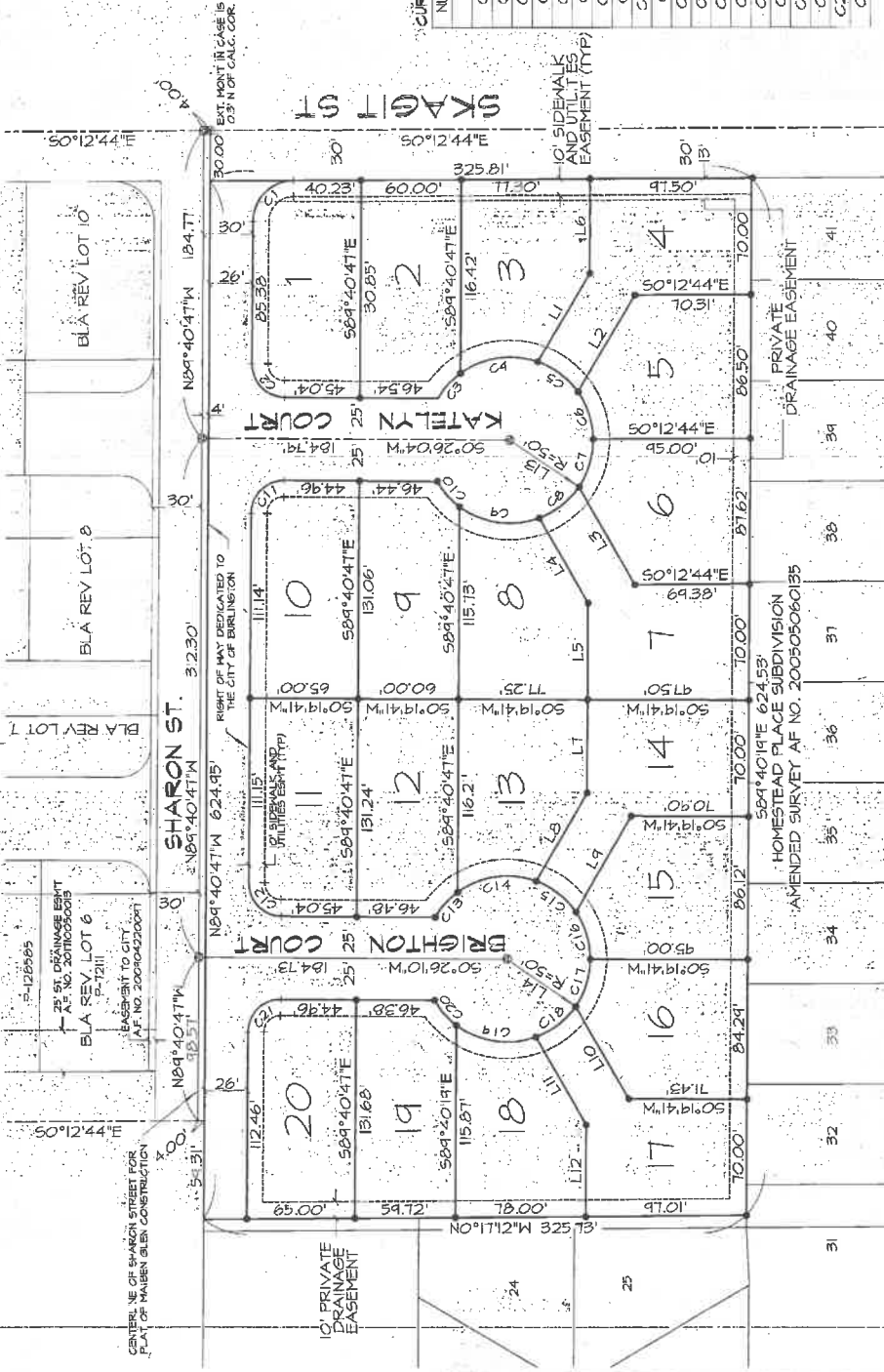
HELD MOUNT IN CASE (2006)

HELD MOUNT IN CASE (2006)

HELD MOUNT IN CASE (2006)

HELD MOUNT IN CASE (2006)

PLAT OF MAIBEN GLEN DIVISIONS 1 AND 2



LINE TABLE

NUM	BEARING	DISTANCE
L1	S54°16'12"E	61.64'
L2	S54°16'12"E	61.53'
L3	S60°07'42"W	61.85'
L4	S60°07'42"W	59.16'
L5	N89°40'19"E	58.02'
L6	S89°40'19"E	56.82'
L7	S89°40'19"E	56.09'
L8	S54°57'16"E	61.40'
L9	S54°57'16"E	66.65'
L10	N60°06'01"E	64.37'
L11	N60°06'01"E	61.08'
L12	S84°16'06"W	55.33'
L13	S34°54'55"N	50.00'
L14	S34°54'55"N	50.00'

CURVE TABLE

NUM	DELTA	LENGTH	RADIUS
C1	84°28'03"	39.04'	25.00'
C2	84°53'09"	31.38'	20.00'
C3	23°18'15"	20.35'	50.00'
C4	55°38'31"	48.48'	50.00'
C5	35°07'25"	30.65'	50.00'
C6	34°56'52"	30.50'	50.00'
C7	34°53'00"	30.44'	50.00'
C8	35°11'21"	30.80'	50.00'
C9	57°19'40"	50.03'	50.00'
C10	23°22'56"	20.35'	50.00'
C11	40°06'51"	3.46'	20.00'
C12	24°53'03"	31.38'	20.00'
C13	23°23'45"	20.42'	50.00'
C14	56°26'58"	44.26'	50.00'
C15	35°15'27"	30.77'	50.00'
C16	34°27'33"	30.07'	50.00'
C17	34°55'02"	30.47'	50.00'
C18	35°13'56"	30.75'	50.00'
C19	57°03'06"	44.79'	50.00'
C20	23°14'13"	20.28'	50.00'
C21	50°06'57"	31.46'	20.00'



SHEET 6 OF 6

DATE: 10/25/17

SURVEY IN A PORTION OF
GOVERNMENT LOT 2
SECTION 5 T. 34 N. R. 4 E. NM.
SKAGIT COUNTY, WASHINGTON
FOR: BURLINGTON ONE

FB. P6. MERIDIAN: ASSUMED
LISSEY & ASSOCIATES, PLLC
SURVEYING & LAND USE CONSULTANTS
360-MT-1412
SCALE: 1"=50'
DN6: 11-094 FPOE

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BURLINGTON, WASHINGTON IN THE MATTER OF APPROVING PHASES I AND II OF THE MAIBEN GLEN SUBDIVISION

WHEREAS, the division of land is regulated by chapter 58.17 RCW and title 16 of the Burlington Municipal Code; and

WHEREAS, the division of land into ten or more lots is classified by Burlington Municipal Code 16.04.030 as a subdivision; and

WHEREAS, pursuant to BMC 16.08.016 and 16.08.064 subdivisions require both a preliminary approval and a final approval; and

WHEREAS, the City Council is authorized by BMC 16.08.072 and RCW 58.17.170 to consider requests for final plat approval; and

WHEREAS, on June 14, 2007 the City Council preliminarily approved the Maiben Glen subdivision; and

WHEREAS, June 11, 2015 the City Council authorized the division of the Maiben Glen subdivision into three phases; and

WHEREAS, on October 6, 2017 the Planning Department received a request for final plat approval of phases I and II of the Maiben Glen subdivision; and

WHEREAS, the Planning Department has reviewed the final plat application and determined that it is consistent with the conditions of preliminary plat approval and complies with all applicable provisions of chapter 58.17 RCW and title 16 BMC; and

WHEREAS, the Public Works Department has determined that all of the required streets, sidewalks, utilities, and other public improvements required by the preliminary plat approval have been constructed or installed in compliance with applicable City of Burlington standards;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGTON, WASHINGTON, DO ORDAIN AS FOLLOWS:

1. The City Council hereby approves the request for final plat approval of phase I and II of the Maiben Glen subdivision; and
2. The City Council hereby authorizes the Mayor to sign this ordinance; and

3. The City Council hereby authorizes the Mayor and City staff to sign the final plat document.

INTRODUCED AND PASSED at a regular meeting of the City Council of the City of Burlington on this 9th day of November, 2017.

THE CITY OF BURLINGTON

Steve Sexton, Mayor

ATTEST:

Renee Sinclair, Director of Budget & Accounting

APPROVED AS TO FORM:

Leif Johnson, City Attorney

Filed with the City Clerk: 11/xx/2017
Passed by the City Council: 11/08/2017
Signed by the Mayor: 11/xx/2017
Published: 11/xx/2017
Effective date: 11/1/2017