



City of Tukwila Transportation and Infrastructure Services Committee

- ❖ Jovita McConnell, Chair
- ❖ Mohamed Abdi
- ❖ Hannah Hedrick

Distribution: J. McConnell H. Hedrick P. Mayer G. Lerner (email)	Share pkt pdf on SharePoint to A. Le, A. Youn M. McCormick, J. Marshall
---	---

AGENDA

MONDAY, MARCH 24, 2025 – 5:30 PM

HYBRID MEETING – ONSITE AND VIRTUAL

~~DUWAMISH CONFERENCE ROOM~~ CITY COUNCIL CONFERENCE ROOM,
6200 SOUTHCENTER BOULEVARD TUKWILA, WA

MS Teams: [CLICK HERE TO JOIN THE MEETING](#)

Virtual Meeting - Members of the public may listen by dialing 1-253-292-9750 and entering conference ID 252508487#

Item	Recommended Action	Page
1. PRESENTATIONS		
a) Creation of Transportation Benefit District (Marty Wine and UW Evans School Students)	a) Discussion only	Pg. 1
2. BUSINESS AGENDA		
a) Franchise Agreement with Ezee Fiber Texas, LLC (Eric Compton)	a) Forward to the 04/14/2025 Committee of the Whole and the 04/21/25 Regular Consent Agenda	Pg. 31
b) S 131st St/Southgate Creek Drainage Improvements Dept. of Ecology Community Based Public Private Partnership (CBP3) Grant Award (Catrien de Boer)	b) Forward to the 04/07/2025 Regular Consent Agenda	Pg. 83
c) Resolution to Surplus & Sell qty 2 2017 Ford Police Interceptors (Shawn Christie)	c) Forward to the 04/07/2025 Regular Consent Agenda	Pg. 87
d) Resolution for Adoption of the Local Road Safety Plan (Cyndy Knighton)	d) Forward to the 04/14/2025 Committee of the Whole and the 04/21/25 Regular Consent Agenda	Pg. 93

Next Scheduled Meeting: April 28, 2025



INFORMATIONAL MEMORANDUM

TO: Transportation & Infrastructure Services Committee

FROM: Marty Wine, City Administrator

CC: Mayor Thomas McLeod
Aaron BeMiller, Finance Director

DATE: March 17, 2025

SUBJECT: Transportation Benefit District as a revenue option

ISSUE

Briefing about potential for creation of a Transportation Benefit District by a student team from the UW Evans School. (Clare Collins, Jacquelyn Liu, Lucca Howard, Pieter Quinton)

BACKGROUND

One option that the City could consider for increasing or supplementing future city revenues would be the creation of a Transportation Benefit District. This source provides for dedicated transportation revenue (which, if enacted, could allow revenues from the General Fund currently used for transportation services to be freed up to be used for other General Fund services or purposes). As a project for the Public Policy - Local Government Management class, four students have teamed up to analyze the potential of creating a Transportation Benefit District for Tukwila, and will present their research and findings to the committee.

DISCUSSION

During 2025-26 budget adoption, the City Council requested a review of options to increase city revenues. The adopted budget included a proviso: "Throughout the rigorous biennial budget process, it has become clear that the City cannot depend exclusively on cost-cutting measures to address future budget deficits. To ensure long-term financial stability, it will be imperative to identify new revenue sources and strengthen existing revenue streams. The City Council has directed the Finance Department to return midyear to present and discuss potential additional revenue options." The Administration anticipates providing a report to respond to this proviso more fully in July, 2025. New or expanded revenue sources that would reduce reliance on the General Fund for city services could be considered for implementation. This report provides ideas for next steps, depending on the approach to implementation.

FINANCIAL IMPACT

The report estimates the potential revenue that could be generated if the TBD was created. This is an additional source that could be used for transportation (including traffic and transit) programs and projects.

RECOMMENDATION

Discussion only. Council is asked to consider the idea of creating a Transportation Benefit District as one potential revenue source, and include this concept as part of its broader consideration of revenue sources later in 2025, when the revenue proviso report is presented.

ATTACHMENTS

Team Report & Memorandum
Powerpoint presentation (available at Committee meeting)



Transportation Benefit District Analysis

Jacquelyn Liu –
Lucca Howard –

Pieter Quinton –
Clare Collins –

1. City Overview
2. TBD Definitions
3. Geographic Analysis
4. Tukwila Investments
5. Comparisons
6. Funding Methods
7. Funding Proceeds
8. Option Analysis
9. Recommendation
10. Next Steps



Table of Contents



Tukwila

- 21,135 residents
- More diverse in terms of race and languages spoken compared to the rest of King County.
- Major retail destination: Westfield Southcenter Mall



Why:

- Connect Revenue and Expenditures
- Relieve pressure off of the General Fund
- Improve vital roads and public transit



What:

- “Transportation projects and programs of regional or statewide significance”
- Within set borders



How:

- 10-Day Notice and Legislative Action
- Further action to create taxes or tabs
- Reinstated every 10 years



Where:

- Match Tukwila city lines
- Smaller borders within city
- Combine with neighboring TBD

Defining a TBD

Geographic Analysis

Recommendation: Matching Tukwila city lines

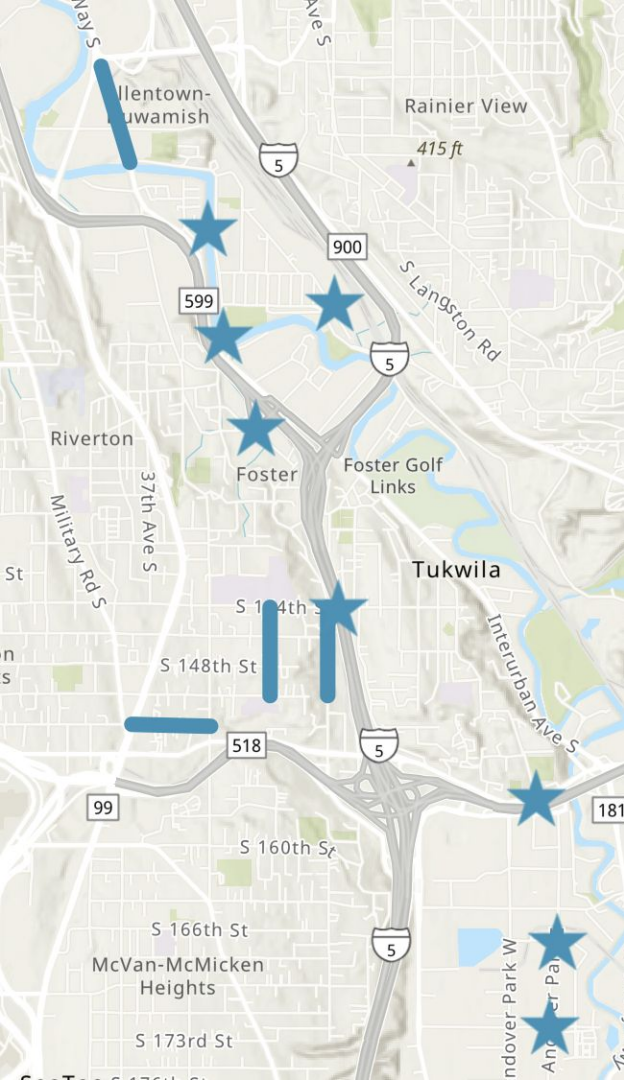
- Boundaries determine revenue sources –
- Boundaries also determine location of spending –
- Smaller than city line does not match intent –
- Merging borders forgos control –
- All surrounding cities (except Sea-Tac) have TBDs –



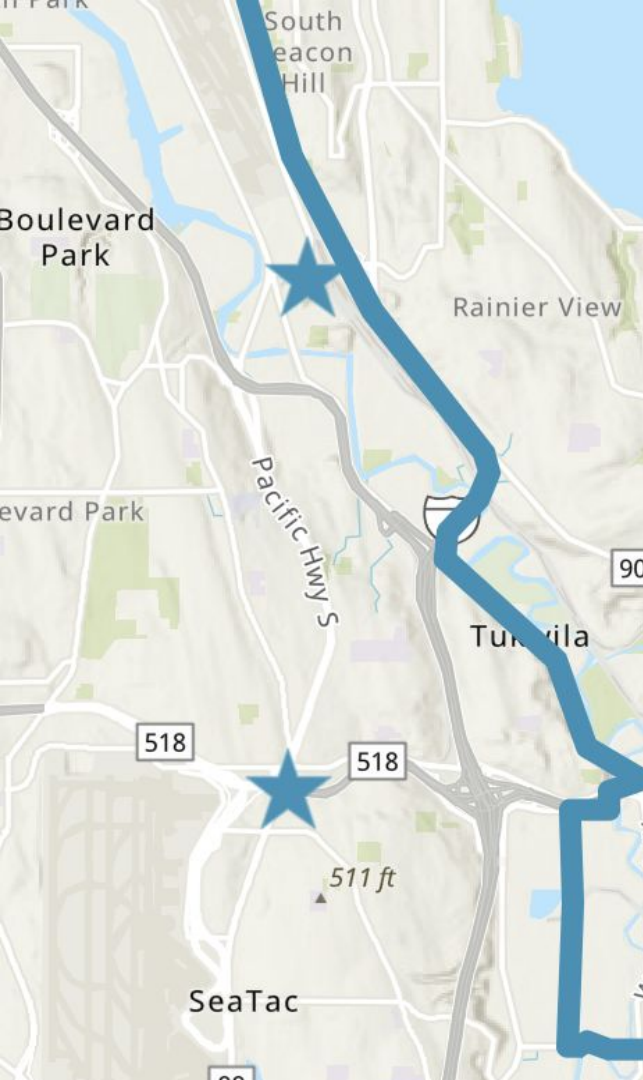
TBD Spending

Items TBD Would Fund

- All projects included on map –
- Maintenance for roads & bridges –
- Operational budget for traffic lights –
- Transportation demand management projects –
- Without funding increases, TIP cannot complete –

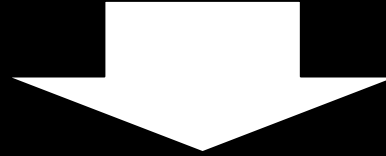


Map of TIP improvements



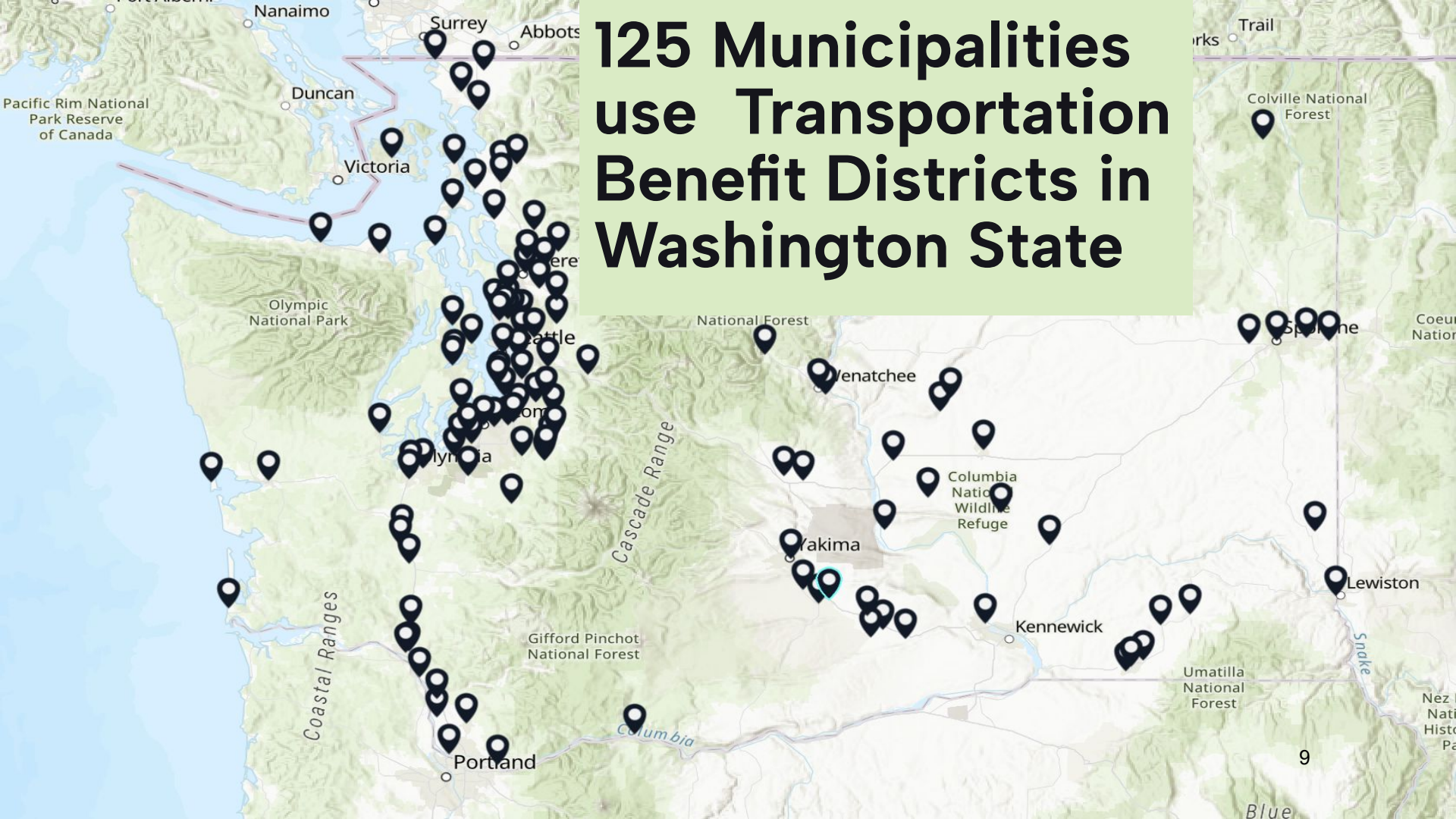
Tukwila has highest Sound
Transit investment per capita

Public transportation projects
with good density, walkability



Safer streets, New development,
Increased property tax revenues,
connected neighborhoods, healthier
communities

Major transit projects in
Tukwila



125 Municipalities use Transportation Benefit Districts in Washington State

Funding Methods

Car Tabs

- Used by 54 Municipalities
- Used by Seattle
- Good for municipalities with large population and high car ownership

Sales Tax

- Used by 82 Municipalities
- Used by Auburn, Renton, Seattle
- Good for municipalities with high sales volumes, high traffic commercial areas

Potential Funding Proceeds

Car Tabs

- At \$20: 400k/ year,
\$2M over 5 years
- At \$40: 800k/ year,
\$4M over 5 years

Sales Tax

- At 0.1%: \$2.3M,
\$11M over 5 years
- At 0.3%: \$7M/
\$45M over 5 years

Equity Impact

Car Tabs

- Per car owner tax
- Will affect businesses that process car tabs
- Will only tax tukwila residents

Sales Tax

- Taxes businesses
- Dependant on sales traffic from Southcenter mall
- Large portion of revenue will not come from Tukwila residents

Options	Estimated Annual Revenue	Current Understanding of Legal Authority	Estimated Administrative Complexity	Estimated Time to Implement	Estimated Political Complexity
Enact an additional 0.1% sales tax through council action	\$2,344,788	Clear	Low	Less than 1 year	Low
Enact an additional 0.3% sales tax through ballot measure	\$7,034,640	Clear	Low	1- 2 years	Medium
Enact a \$20 vehicle license fee through council action	\$360,000	Clear	Medium	Less than 1 year	High
Enact a \$40 vehicle license fee through council action	\$720,000	Clear	Medium	Less than 1 year	High

Options laid out and recommendation



1. Enact a 0.1% sales tax increase through council action. (Recommended)
2. Enact a 0.3% sales tax increase through ballot measure. (Recommended for Maximizing Revenue)
3. Enact a \$20 vehicle license fee increase through council action.
4. Enact a \$40 vehicle license fee increase through council action.

Next Steps



1. Conduct a workshop of ideas, if more information is needed
2. Decide whether to create a TBD and decide on a preferred revenue stream, either:
 - a. All in one decision OR
 - b. Vote to create a TBD now and identify a revenue stream later
3. Determine whether the city goal is to maximize funding through public votes to support the TIP goals or to do as much as possible through a councilmanic option.
4. Either bring one of the councilmanic options to the Council for review or submit a resolution to the county auditor calling for a special election

City of Tukwila
MEMORANDUM

TO: Administrator Marty Wine

FROM: Clare Collins, Jacquelyn Liu, Lucca Howard, Pieter Quinton

DATE: March 6, 2025

SUBJECT: Transportation Benefit District (TBD)

EXECUTIVE SUMMARY

The City of Tukwila is looking for a targeted, sustainable revenue stream that can be used to fund transportation specific projects within the City. TBDs are used throughout the State of Washington as a funding source for transportation improvements. Currently 125 cities across Washington use TBDs including almost all the cities directly bordering Tukwila. TBDs can generate revenue from sales taxes and vehicle license fees. TBD revenue over a certain rate requires ballot measure approval, otherwise they can be formed by a council vote. The table below highlights four possible options for forming a TBD as well as their respective tradeoffs.

Options	Estimated Annual Revenue	Current Understanding of Legal Authority	Estimated Administrative Complexity	Estimated Time to Implement	Estimated Political Complexity
1. Enact an additional 0.1% sales tax through council action	\$2,344,788	Clear	Low	Less than 1 year	Low
2. Enact an additional 0.3% sales tax through ballot measure	\$7,034,640	Clear	Low	1- 2 years	Medium
3. Enact a \$20 vehicle license fee through council action	\$360,000	Clear	Medium	Less than 1 year	High

4. Enact a \$40 vehicle license fee through council action	\$720,000	Clear	Medium	Less than 1 year	High
--	-----------	-------	--------	------------------	------

This report recommends the Council implement a 0.1% councilmanic sales tax. Given Tukwila’s commercial hub at Southcenter Mall, a sales tax increase is a better option for Tukwila’s community than vehicle tabs because a large portion of the revenue generated will not be paid by Tukwila residents. Additionally, the neighboring cities of Renton, Auburn, and Seattle all have at least a 0.1% sales tax for their TBDs so Tukwila’s businesses wouldn’t be at a competitive disadvantage if it enacts a 0.1% sales tax funded TBD. The TBD funding will generate important revenue to support funding Tukwila’s highest priority transit investments that currently do not have funding, and bring in private investment around large WSDOT, Sound Transit, and King County projects. Should the Council favor larger revenue streams than provided by the 0.1% sales tax, this report recommends considering a 0.3% sales tax via ballot measure. Some of the increases in cost from the sales tax would be offset by the scale of private investment that would come from investing in infrastructure around station areas.

BACKGROUND

Tukwila is a city of about 21,135 residents, according to US Census Bureau estimates.¹ It is located in the western part of King County, south of Seattle, between SeaTac and Burien to the west and Renton to the east.² The City lies along the Duwamish and Green River and Interstate 5.³ Tukwila has a population density of 2,373 residents per square mile, which is comparable to the neighboring city of SeaTac. However, it is much less dense compared to other nearby cities

¹ “US Census Bureau Quick Facts: Tukwila city, Washington,” United States Census Bureau, July 1, 2023, <https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>.

² “City Maps,” City of Tukwila, accessed February 23, 2025, <https://www.tukwilawa.gov/departments/community-development/city-maps/>.

³ “City Maps.”

like Seattle, Burien, and Renton.⁴⁵⁶⁷ Part of the reason Tukwila is less dense compared to its neighbors is the Westfield Southcenter Mall, which employs over 43,000 people, a significant job base for a city the size of Tukwila.⁸ Tukwila is more diverse in terms of race and languages spoken compared to the rest of King County.⁹ Due to the Westfield Southcenter Mall, as well as Tukwila's proximity to Seattle-Tacoma International Airport, Tukwila is a major regional retail destination. The City has well-connected transportation options, with multiple bus routes, light rail stations, and access to major highways like Interstate 5 and 405.

CURRENT STATUS

Tukwila has proposed total budget expenditures for 2025 of \$163,747,027.¹⁰ That is offset by projected revenue (resources) of \$157,560,372. As such, the City is projecting a modest budget deficit which can be offset by fund reserves. Presently, transportation related expenditures fall under the general fund obligations. The Public Works Department has a proposed budget of \$9,738,964 for 2025. Within the proposed Public Works budget, \$4,761,271 has been earmarked for "Street Maintenance".¹¹ The City has targeted several transportation related indicators of success, including:¹²

- Continue improvements for the Traffic Calming/Residential Safety Program
- Complete 100% design of the 42nd Ave S Bridge Replacement Project
- Begin construction of Boeing Access Road Bridge Replacement Project

⁴ "US Census Bureau Quick Facts: Seattle city, Washington," United States Census Bureau, July 1, 2024, <https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>.

⁵ "US Census Bureau Quick Facts: Burien city, Washington," United States Census Bureau, July 1, 2024, <https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>.

⁶ "US Census Bureau Quick Facts: Renton city, Washington," United States Census Bureau, July 1, 2024, <https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>.

⁷ "US Census Bureau Quick Facts: SeaTac city, Washington," United States Census Bureau, July 1, 2024, <https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>.

⁸ "City of Tukwila Community Profile and Peer Benchmarking," City of Tukwila, December 1, 2023, <https://www.tukwilawa.gov/wp-content/uploads/Tukwila-Community-Profile-and-Peer-Benchmarking-Summary-Revised.pdf>.

⁹ "Tukwila," Puget Sound Regional Council, 2013, <https://www.psrc.org/sites/default/files/2022-03/rgc-profile-tukwila.pdf>

¹⁰ "2025–2026 Biennial Budget." *City of Tukwila*, www.tukwilawa.gov/wp-content/uploads/FIN-Current-Budget.pdf.

¹¹ "2025-26 Preliminary Proposed Biennial Budget - Public Works." *City of Tukwila*, www.tukwilawa.gov/wp-content/uploads/Tab-10-PW.pdf. Accessed 26 Feb. 2025.

¹² "2025-26 Preliminary Proposed Biennial Budget - Public Works." *City of Tukwila*

- Begin construction of S 152nd Pedestrian Improvements

The Traffic Calming/Residential Safety Program, or Neighborhood Traffic Calming Program (NTCP) as it's commonly referred to as, is a way for the City to improve the livability of its neighborhoods by regulating car speeds and traffic on the roads.¹³ The NTCP was created by Council in 2018, and resulted in improvements at several key intersections in the Allentown Neighborhood.¹⁴ Looking ahead, the City has created its key Transportation Improvement Plan (TIP) which outlines priority projects and their respective cost schedules. The TIP has a projected cost of \$65,632,000 spread over five years, 2024-2029.¹⁵ Those costs are largely front loaded, with over \$50 million coming in the first three years of the plan. City staff anticipate needing to secure an additional \$17,955,000 in City funding to cover the projected costs over the duration of the plan.¹⁶ The full TIP can be found in Appendix 1 of this report. Given the current budget constraints, the City will need to secure additional or financing to complete all the items on its TIP on schedule.

Despite budget constraints, Tukwila is in a particularly advantageous position to invest in transportation improvements. There are three major capital projects planned in Tukwila. The Boeing Access road infill station for the light rail, the Stride station, and pedestrian bridge near the existing light rail station.¹⁷ RapidRide also named route 150 bus as the highest priority BRT project going into the future.¹⁸ Tukwila is uniquely positioned to capitalize on these major public works through transportation improvement projects. For every \$1 spent on these transportation projects, cities can receive around \$5 in private investment.¹⁹ Due to the high density of these major capital projects in Tukwila, this figure could be higher. Investing in

¹³ "Neighborhood Traffic Calming Program." *City of Tukwila*, 13 Nov. 2023, www.tukwilawa.gov/departments/public-works/construction-projects-and-transportation-impacts/neighborhood-traffic-calming-program/

¹⁴ "Neighborhood Traffic Calming Program." *City of Tukwila*

¹⁵ "Transportation Improvement Plan." *City of Tukwila*.

¹⁶ "Transportation Improvement Plan." *City of Tukwila*.

¹⁷ Sound Transit, *Sound Transit future services*, January 2025

<https://www.soundtransit.org/sites/default/files/documents/st-future-service-map.pdf>

¹⁸ Lin, Wesley. "Rapidride Future and Prioritization." *Seattle Transit Blog*, 23 July 2024, seattletransitblog.com/2024/07/23/rapidride-future-and-prioritization/

¹⁹ "Transit Benefits." *Public Transportation*, www.publictransportation.org/transit-benefits/grows-communities

transportation improvements around new stations will yield private investment, especially while there is still excitement surrounding them, which provides a plethora of benefits to Tukwila.

As discussed, money for the transportation improvement projects is currently coming out of the general fund. While this is not necessarily a problem, and to fund the Transportation Improvement Plan fully money will need to continue to come out of the general fund, it is not ideal. General fund expenses can vary, and if there is a crisis, this may lead to transportation improvements being cut. Tukwila is also facing a budget shortfall. One solution is to create a funding source for transportation separate from the general fund. Having a stand alone funding source for transportation would allow for a greater amount of flexibility when apportioning general budget funds to transportation, which could mean more funding for key services when budgets are tight. There is precedent for this move, since utilities and garbage services in Tukwila also have dedicated revenue streams, taking funding for those services out of the general fund.²⁰

TRANSPORT BENEFIT DISTRICT OVERVIEW

In its simplest definition, a Transportation Benefit District (TBD) is a governmental organization that can be created with the purpose of collecting funds which can only be used for the purpose of transportation improvements—it is a nexus to connect revenue and expenditure streams. The scope of these improvements are limited within the district’s lines, but may be applied to “transportation projects and programs of regional or statewide significance” including but not limited to highways and arterial roads, public transportation, and high capacity transportation.

The creation of the Transportation Benefit District involves legislative action with a proper, 10-day notice to the public. Further modifications or the discontinuation of the TBD involve a similar process. The creation of the TBD requires specifying the geographic boundaries of the TBD covers and the activities to be funded. This action does not itself include the creation of

²⁰ “Revenue & Tax Information.” *City of Tukwila*, 3 Mar. 2025, www.tukwilawa.gov/departments/finance/revenue-taxes/.

taxes or fees. TBDs are created without an innate duration; although sales taxes, one of the primary forms of funding a TBD uses, can only be set for a duration of 10 years or less.²¹

While many TBDs share the same boundaries as the county or city that forms them, they can be created with smaller or larger borders. If the borders of the TBD are that of the establishing local government, then the acting legislature serves as the independent legislature of the TBD. In order to create a TBD across city or county lines, an interlocal agreement must be made and the governing board must be made up of either 5 members of which at least 1 is from each jurisdiction or the governing body of a metropolitan planning organization with the same boundaries. In either case, a TBD is not permitted to serve a population greater than 1.5 million individuals.²²

GEOGRAPHIC SCOPE

The geographical boundaries of the TBD must be outlined when it is established. Most TBDs are formed with the same borders as the county or city that establishes it.²³ While there are alternatives available, many pose individual challenges. The border determines the zone from where funding can be sourced and spent. The boundaries can be made smaller than city limits when establishing the TBD. However, in order to create a TBD that extends beyond city lines, an interlocal government agreement must be reached. The governing body of a TBD that encompasses multiple cities must include a council that includes elected legislative officials from all municipalities included in the TBD.

There is no significant advantage in Tukwila creating a TBD larger than its municipal borders. All cities bordering Tukwila have their own existing TBDs. If Tukwila were to want to join forces, neighboring cities would have to modify their TBD borders to include Tukwila. Furthermore, a shared TBD would concede some control from each party and would place a greater emphasis on shared projects.

²¹ Washington State Legislature, Revised Code of Washington, Title 36 Counties, Chapter 73 Transportation Benefit Districts, last updated December 2024,

<https://app.leg.wa.gov/rcw/default.aspx?cite=36.73&full=true#36.73.030>

²² Revised Code of Washington Chapter 36.73

²³ "Transportation Benefit Districts (TBDs)"

FORMATION OPTIONS

A city may establish a Transportation Benefit District (TBD) after holding a public hearing, if it decides that it will serve the public interest.²⁴ There are two main ways of forming a TBD:

- ❖ Council vote - A council vote is generally a quicker method of forming a TBD. However, a council vote can only raise sales tax by 0.1%.²⁵ If the council wishes to raise the sales tax by more than 0.1%, it must use a ballot measure to do so.²⁶ Another TBD funding source, vehicle license fees, can be imposed up to \$50 by a council vote.²⁷
- ❖ Ballot measure - In recent years, voters have approved nearly all proposed TBD sales and use taxes.²⁸ A ballot measure can authorize a vehicle license fee of up to \$100 or a sales tax of up to 0.3%.²⁹

CASE STUDIES

Across Washington since the enactment of the law permitting TBDs, 125 municipalities have enacted some form of TBD.³⁰ Most major cities in the state have a TBD, the largest without one is Bellevue. A majority of municipalities that have enacted a TBD use sales taxes. 82 have a sales tax, and out of those that have a sales tax, a majority have a rate of 0.1%. Seven cities have the highest sales tax rate of 0.3%. Out of the 125 state TBDs, 54 use car tabs. Of those, the vast majority use a rate of \$20, with some using the highest councilmanic rate of \$40. The highest vehicle tab rate used was \$60 between 2014 and 2020 in Seattle, however that rate was allowed to expire. No other city has tried to implement a car tab rate over \$40.³¹ The table below summarizes the distribution of how cities in Washington have funded their TBDs.

²⁴ "Transportation Benefit Districts (TBDs)," Municipal Research and Services Center of Washington, Accessed February 23, 2025, <https://mrsc.org/explore-topics/finance/revenues/transportation-benefit-districts>

²⁵ "Transportation Benefit Districts (TBDs)"

²⁶ "Transportation Benefit Districts (TBDs)"

²⁷ "Transportation Benefit Districts (TBDs)"

²⁸ "Transportation Benefit Districts (TBDs)"

²⁹ "Transportation Benefit Districts (TBDs)"

³⁰ "Transportation Benefit Districts (TBDs)"

³¹ "Transportation Benefit Districts (TBDs)"

	Only Sales Tax	Only Vehicle License Fees	Both Sales Tax and Vehicle License Fees
Number of Cities	66	38	16

Tukwila borders the cities of Renton, Kent, Burien, Seatac, and Seattle. Auburn is also relevant here due to similarities in government and location in the Duwamish River Valley. Of those cities, Kent and Seatac do not have TBDs. Of the cities that do, Renton and Auburn have a 0.1% sales tax, the maximum councilmanic sales tax. Burien also has a TBD, but it is funded with a \$20 car tab. Of the cities close to Tukwila, Seattle has the largest TBD with a \$40 car tab and a 0.15% sales tax. Auburn has had a sales tax funded TBD since 2023, and is using the money to fund a plethora of improvements to its downtown core. In general, the majority of cities proximate to Tukwila have a TBD, some have adopted it recently, others have had it for a number of years.

ANALYSIS, OPTIONS, AND RECOMMENDATIONS

This report is considering four possible pathways for Tukwila to create a TBD:

1. Enact a 0.1% sales tax increase through council action.
2. Enact a 0.3% sales tax increase through ballot measure.
3. Enact a \$20 vehicle license fee increase through council action.
4. Enact a \$40 vehicle license fee increase through council action.

In evaluating the options, this report analyzes the revenue generating capacity, community support, and equity impact of each proposal.

REVENUE GENERATION

There are two feasible methods for Tukwila to generate TBD revenue: sales tax and vehicle tabs. The City of Tukwila currently imposes an additional 1% sales tax on its residents. The sales tax is anticipated to garner \$23,447,886 in revenue in 2025.³² If Tukwila were to take a conservative approach similar to Auburn and Renton and enact a 0.1% councilmanic sales tax, the 2025

³² "Budgets," City of Tukwila, Accessed March 6, 2025, <https://www.tukwilawa.gov/departments/finance/budgets/>

numbers project additional revenues of \$2,344,788. The maximum possible sales tax for a TBD is 0.3%, which can be accomplished via ballot measure. Extrapolating 2025 numbers again, this would raise \$7,034,364 per year. The other feasible method would be car tabs. Tukwila does not have a vehicle tab, so Kenmore will be used as a stand in. Kenmore has only about two thousand more residents than Tukwila, and the car ownership rate is also similar³³, so it is reasonable to assume a similar projection for vehicle fees between the two cities. Kenmore's 2025-26 budget projects revenue of \$1,434,336 at a car tab rate of \$40.³⁴ So if the city of Tukwila were to adopt a \$40 fee, the maximum councilmanic fee, it should expect roughly similar income over a two year period, or half that number per year. Another option would be to adopt a \$20 fee like Burien. The revenue from the \$20 fee in 2025 is expected to be \$764,000.³⁵ Burien has roughly twice the population of Tukwila, so Tukwila could expect half that number per year from a \$20 vehicle tab. The projected revenues of each of the five proposals are summarized in the table below. As the data illustrates, increasing the sales tax, even 0.1%, will generate considerably more revenue than all of the vehicle license fee increases.

Option	Projected Annual Revenue
1. Enact a 0.1% sales tax increase through council action	\$2,344,788
2. Enact a 0.3% sales tax increase through ballot measure.	\$7,034,364
3. Enact a \$20 vehicle license fee increase through council action.	\$360,000
4. Enact a \$40 vehicle license fee increase through council action.	\$720,000

COMMUNITY SUPPORT

³³“Kenmore, WA.” *Data USA*, datausa.io/profile/geo/kenmore-wa

³⁴ “Budget Documents.” *City of Kenmore*, www.kenmorewa.gov/government/departments/finance-administration/financial-accounting/budget-documents.

³⁵ “Budget.” *City of Burien*, www.burienwa.gov/city_hall/finance/budget.

The feasibility of each option depends on the way the TBD is formed, councilmanic or by ballot measure, and the size of either the sales tax or vehicle tab increase. Looking at neighboring cities, both Renton and Auburn enacted TBDs with 0.1% sales tax increases by council vote. Renton and Auburn are important guides for understanding the feasibility of such an action in Tukwila because they, like Tukwila, have Mayor-Council forms of government. Renton City Council faced little public pushback when it enacted its TBD last year. In Auburn, the city council initially adopted a \$20 vehicle license fee increase but quickly suspended and then rescinded that resolution before any fees were collected.³⁶ Instead, Auburn opted to enact a 0.1% sales tax increase.³⁷ Vehicle tabs have generated pushback statewide. In 2021, the State Senate explored the possibility of payment plans for vehicle license fees as a result of community frustration over growing fees.³⁸ As a result of anticipated community pushback, this report recommends against utilizing vehicle license fees for funding a TBD.

In order for Tukwila to approve a greater than 0.1% sales tax increase, the TBD will need to be created through a ballot measure. Tukwila residents have demonstrated a political willingness to approve measures with the potential for cost increases. In the last decade, Tukwila residents approved both the Public Safety Bond measure and the Regional Fire Authority. That being said, ballot measures would require public campaigns and outreach that could incur costs and delay the implementation of the TBD. Additionally, many jurisdictions avoid combining tax measures on the ballot as voters may be less likely to approve them all.³⁹ Therefore, Tukwila would need to be strategic in the timing of when the ballot measure was introduced, potentially delaying a crucial funding stream even further. Looking at all these factors, councilmanic is the most politically feasible way to form a TBD.

EQUITY IMPACT

³⁶ "Transportation Benefit District." *City of Auburn*, www.auburnwa.gov/city_hall/public_works/transportation/transportation_benefit_district

³⁷ "Transportation Benefit District." *City of Auburn*

³⁸ Scott, Hanna. "No Car Tab Relief in Washington but Workgroup Will Tackle Challenges." *MyNorthwest.Com*, 1 Apr. 2021, mynorthwest.com/local/car-tab-relief-washington-workgroup-tackle-challenges/2741168

³⁹ "Local Government Ballot Measures," Municipal Research and Services Center of Washington, <https://mrsc.org/explore-topics/elections/propositions/ballot-measures>

Progressive revenue is any funding source that graduates by income. A progressive tax is based on the taxpayer's ability to pay, meaning a lower tax rate on low-income earners than on those with a higher income⁴⁰. Neither vehicle tabs nor sales taxes are progressive revenue. There are equity considerations around enacting either of these taxes, since they equally target rich and poor. However, considering the population of Tukwila, and comparing the volume of money appropriated to the tax burden on residents, the more equitable option is a sales tax. *Most people that will be subject to a sales tax will be from outside of city limits.* This is because a large amount of the sales taxes collected come from Southcenter mall. A majority of Southcenter mall customers come from outside of Tukwila. This means that residents of Tukwila will not be paying the bulk of appropriated revenue.

NEXT STEPS

Included below are a few potential next steps for the City to take:

- ❖ If more information is needed by the council to make a decision, it may be advisable to do a workshop of these ideas and to clarify what additional information is needed to make a decision.
- ❖ If the council is in support of forming a TBD, it may be helpful to vote to create one now and identify a revenue stream later. However, if the council is able to create a TBD and decide on a preferred revenue stream, that would be the most logical approach, as they only have to be involved in the decision once.
- ❖ To identify a revenue stream, determine:
 - Whether to maximize funding through public votes to support the \$17,955,000 the City expects to need for the TIP over the next five years, avoiding the use of general funds, or to do as much as possible through a councilmanic option.
 - Whether the council has a preference when it comes to car tabs versus sales tax.
- ❖ Once the council has identified their preferred TBD revenue sources, they can form a TBD by:

⁴⁰ Iranon, Kasey. "Why You Should Care about Progressive Revenue." *YWCA Seattle | King | Snohomish*, 26 Jan. 2022, www.ywcaworks.org/blogs/firesteel/wed-01262022-1228/why-you-should-care-about-progressive-revenue.

- **Options 1, 3 and 4:** Bringing one of these options to the Council for review and action since the final decision is councilmanic. These instructions pertain to the following three actions, including the recommended 0.1% sales tax:
 - **Option 1 (recommended): Enact a 0.1% sales tax increase through council action.**
 - Option 3: Enact a \$20 vehicle license fee increase through council action.
 - Option 4: Enact a \$40 vehicle license fee increase through council action.
- **Option 2:** This is a voter approved option. For the ballot measure option listed below, the city council must submit a resolution to the county auditor calling for a special election and choose one of four special election dates to hold the ballot measure.⁴¹ They must also submit the information included in the MRSC website (cited) to the county auditor's office before the filing deadline.⁴² These instructions pertain to the following action:
 - Option 2: Enact a 0.3% sales tax increase through ballot measure. This option is **recommended if the city would like to maximize revenue streams** to support the projected TIP costs.

⁴¹ "Local Government Ballot Measures," Municipal Research and Services Center of Washington

⁴² "Local Government Ballot Measures," Municipal Research and Services Center of Washington

Appendix 1

26

DRAFT 2024 - 2029 TIP SUMMARY

2023-2028 CIP Sheet	PROJECT TITLE	Project Costs in Thousands of Dollars							Funding Sources			Unsecured	
		2024	2025	2026	2027	2028	2029	TOTAL	Federal	State/TIB	City/Local	Grant	City*
9	42nd Avenue S Bridge Replacement	900	15,637	13,500	0	0	0	30,037	12,900	17,000	137		
5	46th Avenue Safe Routes to School	510	2,070		0	0	0	2,580		2,060	520	2,060	410
10	Allentown Truck Reroute Project	600	0	0	0	0	0	600			600		
14	ADA Improvements	50	50	50	50	50	50	300			300		250
20	APE/Minkler Blvd Intersection	0	144	1,570	0	0	0	1,714			1,714		1,714
22	APE/Industry Drive Intersection	0	85	657	0	0	0	742			742		742
13	Annual Bridge Inspections and Repairs	205	215	220	230	235	240	1,345			1,345		1,140
12	Annual Overlay and Repair Program	1,400	1,400	1,400	1,500	1,500	1,650	8,850			8,850		7,450
15	Annual Traffic Signal Program	130	130	130	150	150	150	840			840		710
25	E Marginal Way S (BAR - S 112th St)	0	50	0	0	0	3,300	3,350		1,300	2,050	1,300	2,050
-	Keeping South King County Moving with TDM	210	105	0	0	0	0	315		315			
6	Macadam Road S Complete Streets Project	500	3,100	0	0	0	0	3,600		3,250	350	3,250	300
18	S 119th St Pedestrian Bridge Painting	0	200	0	0	0	0	200			200		
23	S 133rd S/SR 599 Southbound Intersection	0	0	0	0	350	2,070	2,420			2,420		2,420
21	S 144th St Bridge Sidewalks	0	0	579	2,690	0	0	3,269	2,500		769	2,500	769
4	S 152nd Street Safe Routes to School	4,015	0	0	0	0	0	4,015		3,200	815	3,200	
-	South King County Regional TDM	261	0	0	0	0	0	261	223	30	8		
19	Southcenter Blvd/65th Avenue S Signal	1,100	0	0	0	0	0	1,100		500	600	500	
-	Transportation Demand Management Impleme	47	47	0	0	0	0	94		94			
TOTAL		9,928	23,233	18,106	4,620	2,285	7,460	65,632	15,623	27,749	22,260	12,810	17,955

PROJECTS REVISED FROM 2023-2028 TIP

New

APE/Industry Drive Intersection

E Marginal Way S (BAR - S 112th St)

S 133rd S/SR 599 Southbound Intersection

Deleted/Completed:

Green River Trail (to be completed 2023)

S 140th St Intersection Improvements

* Unsecured City funding includes all funds necessary outside of the current biennial budget cycle

May 4, 2023

Bibliography

- "2025–2026 Biennial Budget." *City of Tukwila*,
www.tukwilawa.gov/wp-content/uploads/FIN-Current-Budget.pdf.
- "2025-26 Preliminary Proposed Biennial Budget - Public Works." *City of Tukwila*,
www.tukwilawa.gov/wp-content/uploads/Tab-10-PW.pdf
- "Budget." *City of Burien*,
www.burienwa.gov/city_hall/finance/budget.
- "Budget Documents." *City of Kenmore*,
www.kenmorewa.gov/government/departments/finance-administration/financial-accounting/budget-documents.
- "City Maps," City of Tukwila, accessed February 23, 2025,
<https://www.tukwilawa.gov/departments/community-development/city-maps/>.
- "City of Tukwila Community Profile and Peer Benchmarking," City of Tukwila, December 1, 2023,
<https://www.tukwilawa.gov/wp-content/uploads/Tukwila-Community-Profile-and-Peer-Benchmarking-Summary-Revised.pdf>.
- Iranon, Kasey. "Why You Should Care about Progressive Revenue." *YWCA Seattle | King | Snohomish*, 26 Jan. 2022,
www.ywcaworks.org/blogs/firesteel/wed-01262022-1228/why-you-should-care-about-progressive-revenue.
- "Kenmore, WA." *Data USA*,
datausa.io/profile/geo/kenmore-wa
- Lin, Wesley. "Rapidride Future and Prioritization." *Seattle Transit Blog*, 23 July 2024,
seattletransitblog.com/2024/07/23/rapidride-future-and-prioritization/
- "Local Government Ballot Measures," Municipal Research and Services Center of Washington, Accessed January 14, 2025,
<https://mrsc.org/explore-topics/elections/propositions/ballot-measures>
- "Neighborhood Traffic Calming Program." *City of Tukwila*, 13 Nov. 2023,
www.tukwilawa.gov/departments/public-works/construction-projects-and-transportation-impacts/neighborhood-traffic-calming-program/
- Packer, Ryan. "\$80 Million Grant Advances South King County's RapidRide I toward Construction - the Urbanist." *The Urbanist*, 16 Jan. 2025,
www.theurbanist.org/2025/01/16/80-million-grant-advances-south-king-countys-rapidride-i-toward-construction/

“Revenue & Tax Information.” *City of Tukwila*, 3 Mar. 2025,
www.tukwilawa.gov/departments/finance/revenue-taxes/.

Scott, Hanna. “No Car Tab Relief in Washington but Workgroup Will Tackle Challenges.”
MyNorthwest.Com, 1 Apr. 2021,
mynorthwest.com/local/car-tab-relief-washington-workgroup-tackle-challenges/2741168

Smith, Joan, Tonya Todd, and Brent Gibson, “Crime in Washington 2023,” Washington
 Association of Sheriffs and Police Chiefs, October 31, 2023,
<https://waspc.memberclicks.net/assets/Crime%20in%20Washington%202023-compressed.pdf>

“Transit Benefits.” *Public Transportation*,
www.publictransportation.org/transit-benefits/grows-communities

“Transportation Improvement Plan.” *City of Tukwila*.

Sound Transit, *Sound Transit future services*, January 2025
<https://www.soundtransit.org/sites/default/files/documents/st-future-service-map.pdf>

“Transportation Benefit District.” *City of Auburn*,
www.auburnwa.gov/city_hall/public_works/transportation/transportation_benefit_district

“Transportation Benefit Districts (TBDs),” Municipal Research and Services Center of
 Washington, Accessed February 23, 2025,
<https://mrsc.org/explore-topics/finance/revenues/transportation-benefit-districts>

“US Census Bureau Quick Facts: Burien city, Washington,” United States Census Bureau, July 1,
 2024,
<https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>

“US Census Bureau Quick Facts: Renton city, Washington,” United States Census Bureau, July 1,
 2024,
<https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>

US Census Bureau Quick Facts: SeaTac city, Washington,” United States Census Bureau, July 1,
 2024,
<https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>.

“US Census Bureau Quick Facts: Seattle city, Washington,” United States Census Bureau, July 1,
 2024,
<https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>.

“US Census Bureau Quick Facts: Tukwila city, Washington,” United States Census Bureau, July 1,
 2023,
<https://www.census.gov/quickfacts/fact/table/tukwilacitywashington/PST045223#PST045223>.



INFORMATIONAL MEMORANDUM

TO: City Council, Committee of the Whole

FROM: Joel Bush, Chief Information Officer

BY: **Eric Compton, Franchise Analyst**

CC: **Thomas McLeod**

DATE: **03/17/2025**

SUBJECT: **Franchise Agreement with Ezee Fiber Texas, LLC**

ISSUE

Approve an ordinance granting Ezee Fiber Texas, LLC (Ezee Fiber) a new Franchise Agreement with a term of five (5) years.

BACKGROUND

State law provides cities the authority to establish franchises to telecommunication providers who wish to occupy city owned rights-of-way. Tukwila Municipal Code 11.32.060 requires all telecommunication providers to obtain franchise agreements with the City prior to approval to construct, maintain and operate within the City limits.

DISCUSSION

Ezee Fiber provides home internet services in multiple western States and is looking to expand their network into Tukwila residential neighborhoods.

FINANCIAL IMPACT

Under the terms of the Franchise, Ezee Fiber is required to pay the City a \$5000 administrative fee.

RECOMMENDATION

Council is being asked to approve the Ordinance granting Ezee Fiber a Franchise Agreement and consider this item at the April 14, 2025 Committee of the Whole and April 21, 2025 Regular Meeting.

ATTACHMENTS

Tukwila Draft Telecom Franchise Ezee Fiber

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF TUKWILA, WASHINGTON, GRANTING TO EZEE FIBER TEXAS, LLC, 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 TUKWILA, WASHINGTON; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Ezee Fiber Texas, LLC (“Franchisee”) doing business in the State of Washington as Ezee Fiber, has applied for a non-exclusive telecommunications franchise to construct, operate, and maintain telecommunications facilities upon, in, under, across, along, and over certain City roads and Right-of-Ways; and

WHEREAS, the Parties desire to execute a new nonexclusive franchise (this “Franchise”) for purposes of operating and maintaining a telecommunications network; 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; and

WHEREAS, the City is willing to grant the rights requested by Franchisee for a telecommunications franchise subject to certain terms and conditions, which are acceptable to both parties.

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

Section 1. Franchise Granted. The City of Tukwila, hereby grants a telecommunications franchise, attached and incorporated as Exhibit A, to Ezee Fiber. The term of this

franchise shall be for five (5) years, commencing on the date the last party executes the franchise.

Section 2. Terms & Conditions. The terms and conditions governing the franchise specified in Section 1. shall be those set forth on Attachment A to this Ordinance and incorporated herein by this reference as if set forth in full.

Section 3. Deadline for Acceptance. The rights and privileges granted pursuant to this Ordinance shall not become effective until its terms and conditions are accepted by Ezee Fiber Texas, LLC. Such acceptance shall contain any required letter of credit, evidence of insurance, all applicable fees pursuant to Section 14. of the Franchise, and shall be filed with the City Clerk within sixty (60) days after the effective date of this Ordinance. Such instrument shall conform substantially to Attachment B, and evidence the unconditional acceptance of the terms hereof and a promise to comply with and abide by the provisions, terms and conditions hereof.

Section 4. Corrections by City Clerk Authorized. Upon approval of the City attorney, the City Clerk are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 5. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation 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 the remaining portions of this Ordinance or is application to any other person or situation.

Section 6. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law. This Ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

Passed by the City Council of the City of Tukwila, Washington, at a regular meeting thereof this ____ day of _____, 2025.

ATTEST/AUTHENTICATED:

Andy Youn-Barnett, CMC, City Clerk

Thomas McLeod, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Effective Date: _____

Ordinance Number: _____

Office of the City Attorney

Exhibit A: Telecommunication Franchise with Ezee Fiber

DRAFT

ATTACHMENT A

[See attached.]

DRAFT

TELECOMMUNICATIONS FRANCHISE
Between
CITY OF TUKWILA, WASHINGTON
and
EZEE FIBER TEXAS, LLC

This Telecommunications Franchise is entered into by and between the City of Tukwila, Washington a municipal corporation, hereinafter (“the City”) and Ezee Fiber Texas, LLC who is hereinafter known as (“Ezee Fiber” or “Franchisee”). The City and Franchisee are sometimes referred to hereinafter collectively as the “parties.”

Section 1. Franchise Granted.

Section 1.1. Pursuant to RCW 35A.47.040, the City hereby grants to Ezee Fiber a non-exclusive franchise (the “Franchise”) under the terms and conditions contained in this franchise ordinance (the “Franchise Ordinance”).

Section 1.2. This Franchise 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 Tukwila, as approved pursuant to City permits issued pursuant to this Franchise and in accordance with all applicable federal, state, and local codes.

(a) “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 placement by Franchisee of new utility poles is 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 (except for fiber optic cables) used for the provision of “personal wireless services” as defined by RCW 80.36.375.

(b) Public “Rights-of-Way” means land acquired or dedicated to the public or that is hereafter dedicated to the public and maintained under public authority, including, but not limited to, public streets or roads, highways, avenues, lanes, alleys, bridges, sidewalks, utility easements and similar public property located within the franchise area but does not include: State highways; land dedicated for road, streets, highways not opened and not improved for motor vehicle use by the public; structures including poles and conduits located within the right-of-way; federally granted trust lands or forest board trust lands; lands owned or managed by the State Parks and Recreation Commission; federally granted railroad rights-of-way acquired under 43 USC § 912 and related provisions of federal law that are not open for vehicular use; or leasehold or City-owned property to which the City holds fee title or other title and which is utilized for park, utility or a governmental or proprietary use (for example, buildings, other City-owned physical facilities, parks, poles, conduits, fixtures, real property or property rights owned or leased by the City not reserved for transportation purposes).

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

Section 2.1. The authority granted pursuant to this Franchise is a limited authorization to occupy and use the Rights-of-Way throughout the City (the “Franchise Area”). 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 public or privately owned utility poles or conduits is granted herein. Franchisee hereby represents 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, conduit and dark fiber leasing, telephone, data transport and other telecommunications and information services (the “Services”). 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 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 personal wireless services, without obtaining a new franchise or an amendment to this Franchise approved by the City Council.

Section 2.2. Notwithstanding the existence of this Franchise, the installation, construction, maintenance, use, operation, replacement and removal by Franchisee of any one or more Franchise Facilities will be subject to all applicable provisions of Title 11 TMC, including, but not limited to, the City's Infrastructure, Design, and Construction Standards, adopted by the City's Public Works Department of Public Works, the terms and conditions of City right-of-way use permits issued pursuant to Title 11 TMC, the terms and conditions of City building permits issued pursuant to Title 16 TMC, and all other applicable laws, rules and regulations.

Section 2.3. 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 ownership 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;
- (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, unless such rights are otherwise granted by the City.

Section 3. Non-Exclusive Franchise.

Section 3.1. This Franchise is granted to the Franchisee upon the express condition and understanding that it shall be a non-exclusive Franchise which shall not in any manner prevent or hinder the City from granting to other parties, at other times and under such terms and conditions as the City, in its sole discretion, may deem appropriate, other franchises or similar use rights in, on, to, across, over, upon, along, under or through

any Public Rights-of-Way. Additionally, this Franchise shall in no way prevent, inhibit or prohibit the City from using any of the roads, Public Rights-of-Way or other public properties covered or affected by this Franchise, nor shall this Franchise affect the City's jurisdiction, authority or power over any of them, in whole or in part. The City expressly retains its power to make or perform any and all changes, relocations, repairs, maintenance, establishments, improvements, dedications, or vacations of or to any of the roads, Public Rights-of-Way or other public properties covered or affected by the Franchise as the City may, in its sole and absolute discretion, deem fit, including the dedication, establishment, maintenance and/or improvement of new Public Rights-of-Way, thoroughfares and other public properties of every type and description.

Section 4. Term; Early Termination.

Section 4.1. The initial term of the Franchise shall be for a period of five (5) years (the "Initial Term"), beginning on the Effective Date of the Franchise, and continuing until the date that is one day prior to the fifth anniversary of the Effective Date (the "Initial Term Expiration Date"), unless earlier terminated, revoked or modified pursuant to the provisions of this Franchise.

The Franchise granted by this Franchise Ordinance shall automatically renew on the fifth anniversary of the Effective Date with the same terms and conditions as set forth in this Franchise, for one (1) additional five (5) year (the "Renewal Term," and, together with the Initial Term, the "Term"), unless either party provides one hundred twenty (120) days written notice to the other party to request an amendment to the Franchise.

Section 5. Location of Facilities.

Section 5.1. 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 Infrastructure, Design and Construction standards and the Tukwila Municipal Code and subject to the City's applicable permit requirements. Franchisee shall not commence any construction or other similar work within a Public Right-of-Way until (i) a right-of-way use permit authorizing such work has been issued by the City pursuant to Title 11 TMC for a site-specific location or installation, including, but not limited to, relocations, and (ii) if required by Title 16 TMC, a building permit authorizing such work has been issued by the City.

Section 5.2. To the extent that any Rights-of-Way within the Franchise Area are part of the state highway system ("State Highways"), are considered managed access by the City 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. 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 6. Relocation of Facilities

Section 6.1. The Franchisee agrees and covenants that, upon reasonable notice, it will promptly, at its sole cost and expense, protect, support, temporarily disconnect, relocate, or remove from any Public Right-of-Way any portion of the Franchisee Facilities when so required by the City due to any of the following reasons: (i) traffic conditions,

(ii) public safety, (iii) dedications of new rights-of-way and the establishment and/or improvement thereof, (iv) widening and/or improvement of existing rights-of-way, (v) right-of-way vacations, (vi) freeway construction, (vii) change or establishment of road grade, or (viii) the construction of any public improvement or structure by any governmental agency acting in a governmental capacity; PROVIDED that the Franchisee shall generally have the privilege to temporarily bypass, in the authorized portion of the same Public Right-of-Way, upon approval by the Public Works Director, any Franchisee Facilities required to be temporarily disconnected or removed. The provisions of this Section 6. apply to all Franchisee Facilities wheresoever situated within any Public Right-of-Way, regardless of whether the Franchisee Facility at issue was originally placed in such location under the authority of an easement or other property interest prior to the property becoming a Public Right-of-Way. For the avoidance of doubt, such projects shall include any Right-of-Way improvement project, even if the project entails, in part, related work funded and/or performed by or for a third party, provided that such work is performed for the public benefit, and not primarily for the benefit of a private entity, and shall not include, without limitation, any other improvements or repairs undertaken by or for the sole benefit of third party private entities. Collectively all such projects described in this Section 6.1 shall be considered a "Public Project". Except as otherwise provided by law, the costs and expenses associated with relocations or disconnections ordered pursuant to this Section 6.1 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 6.2. Upon the request of the City and in order to facilitate the design of City improvements to Public Rights-of-Way, Franchisee agrees, at its sole cost and expense, to locate and, if reasonably determined necessary by the City, to excavate and expose, at its sole cost and expense, portions of the Franchisee Facilities for inspection so that the location of the facilities may be taken into account in the Public Project design; PROVIDED, that Franchisee shall not be required to excavate and expose the Franchisee Facilities for inspection unless Franchisee's record drawings and maps of the Franchisee Facilities submitted pursuant to Section 13. of this Franchise are reasonably determined by the Public Works Director to be inadequate for the City's planning purposes. The

decision to require relocation of any Franchisee Facilities in order to accommodate Public Projects shall be made by the Public Works Director upon review of the location and construction of the Franchisee Facilities at issue. Where the City incurs additional costs in performing any maintenance, operation, or improvement of or to public facilities due to measures taken by the City to avoid damaging or to otherwise accommodate one or more Franchisee Facilities, Franchisee shall reimburse the City for the full amount of such additional costs promptly upon receiving the City's invoice for same.

Section 6.3. Any condition or requirement imposed by the City upon any person or entity (including, without limitation, any condition or requirement imposed pursuant to any contract or in conjunction with approvals for permits for zoning, land use, construction or development) which reasonably necessitates the relocation of any Franchisee Facilities shall constitute a required relocation for purposes of this Section 6.

Section 6.4. If the City determines that the Public Project necessitates the relocation of Franchisee's Facilities, the City shall provide Franchisee in writing with a date by which the relocation shall be completed (the "Relocation Date") consistent with RCW 35.99.060(2). In calculating the Relocation Date, the City shall consult with Franchisee and consider the extent of facilities to be relocated, the services requirements, and the construction sequence for the relocation, within the City's overall project construction sequence and constraints, to safely complete the relocation, and the City shall endeavor to provide Franchisee at least sixty (60) days' notice prior to the Relocation Date. Franchisee shall complete the relocation by the Relocation Date, unless the City or a reviewing court establishes a later date for completion, as described in RCW 35.99.060(2). To provide guidance on this notice process, the City will make reasonable efforts to involve Franchisee in the predesign and design phases of any Public Project. After receipt of the written notice containing the Relocation Date, Franchisee shall relocate such facilities to accommodate the Public Project consistent with the timeline provided by the City and at no charge or expense to the City. Such timeline may be extended by a mutual agreement.

Section 6.5. If Franchisee fails to complete this work within the time prescribed above and to the City's satisfaction, the City may cause such work to be done and bill the

cost of the work to Franchisee, including all costs and expenses incurred by the City due to Franchisee's delay. In such event, the City shall not be liable for any damage to any portion of Franchisee's Facilities. Within thirty (30) days of receipt of an itemized list of those costs, Franchisee shall pay the City. In any event, if Franchisee fails to timely relocate, remove, replace, modify or disconnect Franchisee's facilities and equipment, and that delay results in any delay damage accrued by or against the City, Franchisee will be liable for all documented costs of construction delays attributable to Franchisee's failure to timely act. Franchisee reserves the right to challenge any determination by the City of costs for construction delays related to an alleged failure to act in accordance with this Section 6.5.

Section 6.6. Franchisee will indemnify, defend, hold harmless, and pay the costs of defending the City, in accordance with the provisions of Section 19. 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 6.7. In the event of an emergency posing a threat to public safety or welfare, or in the event of an emergency beyond the control of the City which will result in severe financial consequences to the City, which necessitates the relocation of Franchisee's Facilities, Franchisee shall relocate its Facilities within the time period specified by the City.

Section 6.8. The provisions of this Section 6. 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 6.9. 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 6.10. The provisions of this Section 6. shall survive the expiration, revocation, abandonment or termination of this Franchise during such time as Franchisee continues to have Facilities in the Rights-of-Way.

Section 7. Undergrounding of Facilities.

Section 7.1. Except as specifically authorized by permit of the City, Franchisee shall not be permitted to erect poles. All Facilities shall be installed underground. 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, 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 all utilities, other than electrical utilities, are currently underground.

Section 7.2. Whenever the City may require the undergrounding of the aerial utilities (other than electrical utilities and personal wireless services facilities) in any area of the City, Franchisee shall underground its aerial facilities 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. Where other utilities are present and involved in the undergrounding project, Franchisee shall only be required to pay its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Franchisee's own Facilities. "Common costs" shall include necessary costs not specifically attributable to the undergrounding of any particular facility, such as costs for common trenching and utility vaults. "Fair share" shall be determined for a project on the basis of the number and size of Franchisee's

Facilities being undergrounded in comparison to the total number and size of all other utility facilities being undergrounded.

Section 7.3. 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 7.3 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 wireline facilities and provided such construction of Franchisee's Facilities continue to comply with Section 7.1 or Section 7.2.

Section 7.4. 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 7.4. 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 6. 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 9. , 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 13.1.

Section 7.5. Both the City and Franchisee shall be entitled to reasonable access to open utility trenches, provided that such access does not interfere with the other party's placement of utilities or increase such party's actual costs. Franchisee shall pay to the City the actual cost to the City resulting from providing Franchisee access to an open trench, including without limitation the pro rata share of the costs to access the open trench and any costs associated with the delay of the completion of a public works project.

The City shall pay to the Franchisee the incremental costs of providing such access to the open trench.

Section 7.6. The provisions of this Section 7. shall survive the expiration, revocation, abandonment or termination of this Franchise. Nothing in this Section 7. shall be construed as requiring the City to pay any costs of undergrounding any of the Franchisee's Facilities.

Section 8. Emergency Work/Dangerous Conditions.

Section 8.1. 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 Tukwila 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, in response to any public health or safety emergency.

Section 8.2. 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 sole negligence, intentional misconduct or criminal actions 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 8. except to the extent caused by the sole negligence, intentional misconduct or criminal actions of the City, its employees, contractors, or agents.

Section 8.3. 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 9. Work in the Rights-of-Way.

Section 9.1. During any period of relocation, construction or maintenance, all work performed by Franchisee or its contractors shall be accomplished in a safe and workmanlike manner, 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.

Section 9.2. Whenever Franchisee shall commence work in any 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 the TMC and the City's generally applicable design 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.

Section 9.3. If the Franchisee shall at any time plan to make excavations in any area covered by this Franchise and as described in this Section 9.3, the Franchisee shall afford the other, 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 9.4. Except for emergency situations, Franchisee shall give at least seven (7) days' prior notice of intended construction to residents in the affected area prior to any underground construction or disturbance. 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 9.5. 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 9.5 shall only apply to the extent necessary to protect above ground Facilities. Franchisee's tree trimming activities shall 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 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 designee.

Section 9.6. 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 9.7. Franchisee shall inform the City with at least thirty (30) 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 pursuant to RCW 35.99.070.

Section 9.8. 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 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 9.9. The provisions of this Section 9. shall survive the expiration, revocation, abandonment, or termination of this Franchise.

Section 10. Restoration.

Section 10.1. Franchisee shall, after installation, construction, relocation, maintenance, or repair of its Facilities, or after abandonment approved pursuant to Section 22. , 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. The Public Works Director or 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 10.2. 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.

Section 10.3. If conditions (e.g. weather) make the complete restoration required under Section 10. 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 10.4. In the event Franchisee does not repair a Right-of-Way or an improvement in or to a Right-of-Way within the time reasonably directed 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 24. .

Section 10.5. The provisions of this Section 10. shall survive the expiration, revocation, abandonment, or termination of this Franchise.

Section 11. Safety Requirements.

Section 11.1. 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 11.2. If an unsafe condition or a violation of Section 11.1 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 11.3. 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 11.4. 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, consistent with the applicable laws, regulations, ordinances or generally applicable standards under which work may be resumed.

Section 12. Work of Contractors and Subcontractors.

Section 12.1. 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 13. Maps and Records.

Section 13.1. The Franchisee agrees and covenants that it shall, within 10 days of substantial completion of any construction project involving a Public Right-of-Way, provide to the City, at no cost to the City, 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 designee.

Section 13.2. 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 13.3. 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 13.3 shall be construed to require Franchisee to violate state or federal law regarding customer privacy, nor shall this Section 13.3 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 13.3 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 13.4. 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, or in the event the City is permitted to charge franchise fees as further described in Section 15.1, or as otherwise required in this Franchise. Franchisee shall be responsible for clearly and conspicuously identifying the work as confidential, trade secret, 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 may take

appropriate steps to protect its interests. Nothing in this Section 13.4 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 13.5. On an annual basis, upon thirty (30) days prior written notice, the City shall have the right to conduct an independent audit of Franchisee's records reasonably related to the administration or enforcement of this Franchise 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, Franchisee shall pay the total cost of the audit.

Section 14. Costs and Fees.

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 \$5,000. 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 shall be considered void if the fee is not paid within ninety (90) days of receipt of the invoice. 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 14.1, 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.

Section 14.3. Consistent with state law, 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 Right-of-Way. 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 Right-of-Way as the result of the presence of Franchisee's Facilities in the Right-of-Way. 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. Billing will be made on a monthly basis.

Section 15. City's Reservation of Rights

Section 15.1. Franchisee hereby represents 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 telecommunications business subject to the utility tax imposed pursuant to the TMC Chapter 3.50. Franchisee stipulates and agrees that certain of its business activities are subject to taxation as a telephone business and that Franchisee shall pay to the City the rate applicable to such taxable services under TMC Chapter 3.50, 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 TMC Chapter 3.50 as may be permitted by law. Nothing in this Franchise is intended to alter, amend, modify or expand the taxes and fees that may be lawfully assessed on Franchisee's Services.

Section 16. Police Powers and City Ordinances.

Section 16.1. Nothing in this Franchise Ordinance 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 the Franchise granted by this Franchise Ordinance, including, but not limited to, any valid ordinance made in the exercise of the City's 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 control by appropriate regulations, including design standards and utility accommodation policies, the location, elevation, manner of construction, and maintenance of any Franchisee Facilities located within any Public Right-of-Way or affecting any Public Right-of-Way, and the Franchisee shall promptly conform with all such regulations, unless compliance would cause the Franchisee to violate other requirements of law. In the event of a conflict between the regulatory provisions of this Franchise Ordinance and any other ordinance(s) enacted under the

City's police power authority, such other ordinance(s) shall take precedence over the regulatory provisions set forth herein.

Section 17. Limitation of City's Liability.

Section 17.1. Administration by the City of the Franchise granted by this Franchise Ordinance shall not be construed to create the basis for any liability to any third party on the part of the City, its elected and appointed officials, officers, employees, and agents for any injury or damage from the failure of the Franchisee to comply with the provisions of this Franchise Ordinance; by reason of any plan, schedule or specification review, inspection, notice and order, permission, or other approval or consent by the City; for any action or inaction thereof authorized or done in connection with the implementation or enforcement of the Franchise by the City; or for the accuracy of plans submitted to the City.

Section 18. Compliance with All Applicable Laws.

Section 18.1. Each party agrees to comply with all present and future federal, state and local laws, ordinances, rules and regulations. Neither the City nor Franchisee waive any rights they may have under any such laws, rules or 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 19. Indemnification

Section 19.1. Franchisee releases, covenants not to bring suit, and agrees to indemnify, defend, and hold harmless the City, its officers, agents, employees, volunteers, elected and appointed officials, and contractors 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 19.2. 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 19. . 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 19.3. 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 19.3. 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 19.4. 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 19.5. Notwithstanding any other provisions of this Section 19. , Franchisee assumes the risk of damage to its Facilities located in the Rights-of-Way 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 sole negligence, intentional misconduct or criminal actions on the part of the City, its officers, agents,

employees, volunteers, or elected or appointed officials, or contractors. In no event shall the City be liable for any indirect, incidental, special, consequential, exemplary, or punitive damages, including by way of example and not limitation lost profits, lost revenue, loss of goodwill, or loss of business opportunity in connection with its performance or failure to perform under this Franchise. 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 or contractors except to the extent any such damage or destruction is caused by or arises from the sole negligence or intentional misconduct, or criminal actions on the part of the City, its officers, agents, employees, volunteers, or elected or appointed officials, or contractors.

Section 19.6. The provisions of this Section 19. shall survive the expiration, revocation, termination, or abandonment of this Franchise.

Section 20. Insurance.

Section 20.1. Franchisee shall procure and maintain for the duration of the Franchise and as long as Franchisee has Facilities in the rights-of-way, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Franchise and use of the rights-of-way.

(a) No Limitation. Franchisee's maintenance of insurance as required by the Franchise 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 in equity.

(b) Minimum Scope of Insurance. Franchisee shall obtain insurance of the types and coverage described below:

(i) Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under Franchisee's Commercial General Liability insurance policy with respect this Franchise using ISO endorsement CG 20 12 05 09 or CG 20 26 07 04, or substitute endorsement providing at least as broad coverage.

(ii) Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

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

(iv) Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

(v) Excess or Umbrella Liability insurance shall be excess over and at least as broad in coverage as Franchisee's Commercial General Liability and Automobile Liability insurance. The City shall be named as an additional insured on the Contractor's Excess or Umbrella Liability insurance policy.

(c) Minimum Amounts of Insurance. Franchisee shall maintain the following insurance limits:

(i) Commercial General Liability insurance shall be written with limits no less than \$5,000,000 each occurrence, \$5,000,000 general aggregate.

(ii) Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$5,000,000 per accident.

(iii) Contractors Pollution Liability insurance shall be written in an amount of at least \$2,000,000 per loss, with an annual aggregate of at least \$2,000,000.

(iv) Excess or Umbrella Liability insurance shall be written with limits of not less than \$5,000,000 per occurrence and annual aggregate. The Excess or Umbrella Liability requirement and limits may be satisfied instead through Franchisee's Commercial General Liability and Automobile Liability insurance, or any combination thereof that achieves the overall required limits.

(d) Other Insurance Provisions. Franchisee's Commercial General Liability, Automobile Liability, Excess or Umbrella Liability, Contractors Pollution Liability insurance policy or policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of Franchisee's insurance and shall not contribute with it.

(e) Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

(f) Verification of Coverage. Franchisee shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Franchise. Upon request by the City, Franchisee shall furnish certified copies of all required insurance policies, including endorsements, required in this Franchise and evidence of all subcontractors' coverage.

(g) Subcontractors. Franchisee shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of Franchisee-provided insurance as set forth herein, except Franchisee shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. Franchisee shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement as least as broad as ISO CG 2026.

(h) Notice of Cancellation. Franchisee shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

(i) Failure to Maintain Insurance. Failure on the part of Franchisee to maintain the insurance as required shall constitute a material breach of Franchise, upon which the City may, after giving five business days' notice to Franchisee to correct the breach, terminate the Franchise or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand.

(j) City Full Availability of Franchisee Limits. If Franchisee maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by Franchisee, irrespective of whether such limits maintained by Franchisee are greater than those required by this Franchise or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by Franchisee.

(k) Franchisee – Self-Insurance. If Franchisee is self-insured or becomes self-insured during the term of the Franchise, Franchisee or its affiliated parent entity shall comply with the following: (i) provide the City, upon request, a copy of Franchisee's or its parent company's most recent audited financial statements, if such financial statements are not otherwise publicly available; (ii) Franchisee or its parent company is responsible for all payments within the self-insured retention; and (iii) Franchisee assumes all defense and indemnity obligations as outlined in Section 19.

Section 21. Bonds.

Section 21.1. 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 in an amount equal to 150% of the construction cost, which should not be less than \$2,000. The amount of the Performance Bond may be reduced during construction as determined by the City.

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 21.2.

Section 21.2. 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 21.2 must be in place prior to City's release of the bond required by Section 21.1.

Section 21.3. Franchise Bond. Franchisee shall provide City with a bond in the amount of Twenty-Five Thousand Dollars (\$25,000.00) ("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 20.1 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 22. Abandonment of Franchisee's Facilities.

Section 22.1. Upon the expiration, termination, or revocation of the rights granted under this Franchise, Franchisee shall remove all of its Facilities from the Rights-of-Way within thirty (30) days of receiving written notice from the Public Works Director or 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 Right-of-Way to at least the same condition the Rights-of-Way were in immediately prior to any such removal provided Franchisee shall not be responsible for any changes to the Right-of-Way 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 22.2. Notwithstanding Section 22.1 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 22.3. Any Facilities which are not removed within one hundred twenty (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 22. 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.

Section 22.4. 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 Right-of-Way within ninety (90) days of such notification from the landlord at no cost to the City.

Section 22.5. The provisions of this Section 22. shall survive the expiration, revocation, abandonment, or termination of this Franchise and for so long as Franchisee has Facilities in Rights-of-Way.

Section 23. Forfeiture and Revocation.

Section 23.1. 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 Tukwila 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 23.2. 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 Tukwila 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 Tukwila 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 Tukwila City Council does not grant any additional period, the Tukwila 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. Remedies to Enforce Compliance.

Section 24.1. 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 24.2. If either party (the "Defaulting Party") 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 such party under the provisions of this Franchise, the other party (the "Non-Defaulting Party") shall provide the Defaulting Party with written notice specifying with reasonable particularity the nature of any such breach and the Defaulting Party 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 Non-Defaulting Party may specify a longer cure period, and condition the extension of time on the Defaulting Party's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty (30) day cure period, and diligent prosecution of the work to completion. If the breach is not

cured within the specified time, or the Defaulting Party does not comply with the specified conditions, the Non-Defaulting Party may pursue any available remedy at law or in equity as provided in Section 24.1 above, or in the event Franchisee has failed to timely cure or commence cure of the breach, the City may, at its discretion, (1) revoke this Franchise with no further notification pursuant to this Section 24. , (2) refuse to grant additional permits, or (3) claim damages of Two Hundred Fifty Dollars (\$250.00) per day against the Franchisee or Franchise Bond set forth in Section 21.3.

Section 25. Non-Waiver.

Section 25.1. The failure of either party to insist upon strict performance of any of the covenants and agreements of this Franchise or to exercise any option 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 26. Acceptance.

Section 26.1. Within sixty days of the approval of this Franchise Ordinance, the Franchisee shall execute and return to the City its execution and acceptance of this Franchise in the form attached hereto as Attachment B. In addition, Franchisee shall submit proof of insurance obtained and additional insured endorsement pursuant to Section 20. , any applicable construction Performance Bond pursuant to Section 21.1, the Franchise Bond required pursuant to Section 21.3, and the administrative fee pursuant to Section 14.1.

Section 27. Survival.

Section 27.1. All of the provisions, conditions, and requirements of Section 6. , Section 7. , Section 9. , Section 10. , Section 19. , Section 20. , Section 22. , Section 32.1, Section 35.3 and Section 35.4 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 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 28. Assignment.

Section 28.1. 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 prior written consent is provided to the City within sixty (60) days following the 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 notice shall not be required unless and until the secured party elects to realize upon the collateral. For purposes of this Section 28.1, 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 28.2. Any transactions which singularly or collectively result in a change of 50% or more of the (i) ownership or working control (for example, management of Franchisee or its Telecommunications facilities) of the Franchisee; or (ii) ownership or working control of the Franchisee's Telecommunications facilities within the City; or (iii) control of the capacity or bandwidth of the Franchisee's Telecommunication facilities within the City, shall be considered an assignment or transfer requiring notice to the City pursuant to this Franchise. Such transactions between affiliated entities are not exempt from notice requirements. A Franchisee shall notify the City of any proposed change in, or transfer of, or acquisition by any other party of control of a Franchisee within sixty (60) days following the closing of the transaction.

Section 29. Entire Agreement.

Section 29.1. 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 30. Extension.

Section 30.1. 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 22.

Section 31. Eminent Domain.

Section 31.1. 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 32. Vacation.

Section 32.1. If at any time the City, by ordinance, 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. 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 term set forth in Section 4. Notwithstanding the preceding sentence, the City shall incur no liability for failing to reserve such easement. The City shall notify the Franchisee in writing not less than sixty (60) days before vacating all or any portion of any such area, in which Franchisee is located. The City may, after sixty (60) days written notice to the Franchisee, terminate this Franchise with respect to such vacated area.

Section 33. Hazardous Substances.

Section 33.1. 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 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 33.2. The obligations of the Franchisee under this Section 32.1 shall survive the expiration, revocation, abandonment, earlier termination of the Franchise granted by this Franchise Ordinance.

Section 34. Notice

Section 34.1. 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 TUKWILA
City Clerk's Office
6200 Southcenter Blvd
Tukwila, WA 98188
Phone:
Email:

FRANCHISEE

Section 34.2. The Franchisee's current emergency contact shall be Garner Duncan and is reachable via the following number 972-898-5487 or 713-255-7500, and shall be available 24 hours a day, seven days a week. The Franchisee shall promptly notify the City of any change in the notice address or emergency contact (or title) and phone number.

Section 35. Miscellaneous.

Section 35.1. 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 35.2. City and Franchisee respectively represent that its signatory is duly authorized and has full right, power and authority to execute this Franchise.

Section 35.3. 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 35.4. 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 Snohomish County Superior Court.

Section 35.5. 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 35.6. Where the context so requires, the singular shall include the plural and the plural include the singular.

Section 35.7. 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 35.8. This Franchise may be enforced at both law and equity.

Section 35.9. 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 35.10. 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 35.11. There are no third party beneficiaries to this Franchise.

Attachment B

STATEMENT OF ACCEPTANCE

_____, for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference.

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

STATE OF _____)
)ss.
COUNTY OF _____)

On this ____ day of _____, 2025, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of _____, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

Signature

NOTARY PUBLIC in and for the State of _____
Residing at _____
MY COMMISSION EXPIRES: _____

City of Tukwila
Telecommunications Franchise Application

For Location of Telecommunications
Facilities Within City Right-of-Way

IMPORTANT: THIS APPLICATION CAN NOT BE SUBMITTED UNLESS ACCOMPANIED BY A FRANCHISE APPLICATION FEE DEPOSIT OF \$5891.00 DOLLARS CONSISTENT WITH TUKWILA MUNICIPAL CODE AND FEE RESOLUTIONS. THIS DEPOSIT IS TO COVER ACTUAL ADMINISTRATIVE EXPENSES INCURRED BY THE CITY (INCLUDING STAFF AND ATTORNEY/CONSULTANT RELATED TIME) ASSOCIATED WITH THE REVIEW OF THIS FRANCHISE APPLICATION AND ASSOCIATED FRANCHISE NEGOTIATIONS. THIS IS ONLY AN INITIAL DEPOSIT; ADDITIONAL FEES MAY APPLY IF ADDITIONAL STAFF AND ATTORNEY/CONSULTANT RELATED TIME IS NECESSARY.

Applicants may attach additional pages to further explain the answers below. If a question is not applicable to an application as in the case of a transfer of ownership of a franchisee without a change in the facilities and/or business operations of the acquired entity, an applicant may refer to the information in and the requirements of the underlying franchise.

If you have any questions related to filling out this Franchise Application Form, please contact: Eric Compton via e-mail at Eric.Compton@TukwilaWA.gov.

General Information		
Name of Applicant: Ezee Fiber Texas, LLC dba Ezee Fiber		
Address: 5959 Corporate Dr. Ste. 2000		
City: Houston State: TX	Zip Code: 77036	Telephone: 713-255-7500 main, 713-405-1125 direct
Has the Applicant obtained a city business license? ☐ Yes ☒ X (will apply today, 01/31/2025) Yes No		
PLEASE NOTE: All telecommunication carriers and service providers engaged in the business of transmitting, supplying, or furnishing telecommunications service of any kind originating or terminating in the City of Tukwila shall apply and obtain a Business License from the City pursuant to Chapter 5.04 of Tukwila Municipal Code.		
Name of Person Filing this Application: Garner Duncan		
Title: SVP, Government Affairs		
Company: Ezee Fiber		
Address: 5959 Corporate Dr. Ste. 2000		
City: Houston	Zip Code: 77043	Telephone: 713-405-1125

State: TX		Email: garner.duncan@ezeefiber.com
Are you serving as agent for the above-named applicant?		X ☐
If yes, please attach proof of agency.		Yes No
Property and Facility Information		
Is this an application for: (i) New franchise? Yes X No ☐ (ii) Renewal/amending an existing franchise? Yes ☐ No X (iii) Transfer of a franchise? Yes ☐ No X, if yes, identify who currently holds the franchise:		
If you are renewing/amending an existing franchise, has your franchise otherwise expired? Yes ☐ No X If not, what is the expiration date of your current franchise? N/A		
Describe the telecommunications services that will be offered over the telecommunications facilities. Ezee Fiber will install fiber-optic cables that will provide symmetrical internet connection to homes businesses, governmental and educational entities.		
The applicant may answer yes to one or more of the following questions. Are you proposing to install facilities for personal wireless services? Yes X No ☐ Are you proposing to install small wireless facilities as defined by TMC 18.58.040 in the right of way? Yes ☐ No X Are you proposing to install underground wireline facilities? Yes X No ☐ Are you proposing to install aerial wireline facilities? Yes X No ☐ Are you proposing to install only one facility in the right of way? Yes X No ☐ Are you proposing to operate cable service or other video programming service? Yes ☐ No X Are you proposing to install a wireless communications tower in the right of way? Yes ☐ No X Are you proposing to install new poles in the right of way? Yes ☐ No X		

Are you proposing to install replacement poles in the right of way? Yes ☐ No ☒

If you are proposing to install replacement poles in the right of way, will these poles be over 60 feet?
Yes ☐ No ☒

Are you proposing to install ground equipment in the right of way? Yes ☒ No ☐

Describe the telecommunications facilities and/or other equipment (including personal wireless services and wireless communications facilities) proposed to be located within the right-of-way. Please provide a photo simulation of the proposed facilities if available, which shall include a description of any interconnection and electrical requirements and a description of which structures the facilities will be connected or attached.

For distribution, we intend to install roadside cabinets about every 5,000 homes which are about 2'x4'x4'. We use ground level hand-holes and splice enclosures.

Describe the transmission medium that will be used to provide telecommunications.

Fiber optic cable, 144-288 count cable. We expect the build-out will take 12-18 months in total, although we can build faster if the city will allow.

Describe the areas of the city that are anticipated to be served. What is the expected build-out schedule for these areas? If the City is already built out, describe if there are any expected construction projects.

We expect to build our fiber-optic network across the entire city with-out significantly overlapping another residential fiber-optic provider.

Describe your site access policies.

We do not have any site access policies as we're not installing any sites that will require access.

Do you have an existing pole attachment or lease agreement with owners of poles in the right of way?
Yes ☐ No ☐ We are in the process of working with PGS and BPA on a Joint Use Agreement for pole access.

Have you coordinated with pole owners regarding usage of their facilities and their requirements for leases/pole attachments? Yes ☒ No ☐

Is electrical power to your facilities needed? Yes ☒ No ☐

If electrical power is needed, please describe how the facilities will receive electrical power.

We will require electricity to our roadside cabinet from the incumbent electrical provider.

Have you coordinated with the local electrical utility about their requirements to provide electrical power to your facilities? Yes ☐ No ☒ Not yet

Is backhaul infrastructure to your facilities needed? Yes ☒ No ☐

Is the backhaul infrastructure provided by a third party? Yes ☒ No ☐

If backhaul is needed, please describe how the facilities will receive backhaul.

Should Zayo be our underlying backhaul carrier, we will interconnect with their facilities in predetermined splice locations across the region.

Have you coordinated with backhaul providers regarding their requirements to provide backhaul services to your facility? Yes ☒ No ☐

If the facilities are using microwave technologies for backhaul, are there existing macro facilities within the city (or neighboring jurisdictions) to support this technology?

No

Please describe if your facilities will need any additional interconnection with existing telecommunications facilities or carriers.

Should Zayo be our underlying backhaul carrier, we will interconnect with their facilities in predetermined splice locations across the region.

Indicate what licenses, certificates, and authorizations are required from the Federal Communications Commission, the Washington Utilities and Transportation Commission and any other federal or state agency with jurisdiction over the proposed activities. Have all such licenses, certificates and authorizations been obtained? Please attach your registration with the Washington

Utilities and Transportation Commission.

We are licensed with the FCC and the Washington Utilities and Transportation Commissions (WA License #UT-231030, attached to application).

Describe in detail the services that you expect to provide within the City, including whether the provision of services will be to commercial and/or residential customers.

We intend to build out the entire city with fiber-optics, contingent upon competitors, to all homes and businesses within the city limits of Sammamish. This fiber optic network will deliver 100% fiber optic, carrier grade internet services to the residents and businesses of Tukwila.

Provide a summary of all utility taxes the proposed activities, facilities, and other equipment will be subject to. In doing so, provide an estimate of income/revenues that can be used to calculate estimated future utility taxes. Should the applicant believe it is not subject to any utility taxes, provide the basis for such belief.

We understand the city will charge Ezee Fiber a franchise or ROW assessment in the 3-5% range on Gross Receipts.

Explain whether the Internet Tax Freedom Act does or does not apply to the services being provided.

ITFA prohibits imposition of retail sales tax on internet access

The City of Tukwila reserves the right to ask additional questions on a case-by-case basis.

Certification

I certify that the information and any attachment submitted herewith are true and correct to the best of my knowledge and that I have the authority to file this application and act on behalf of the above-named telecommunications provider or carrier.

Signature



Please Print Name

Garner Duncan

Date

02/07/2025

Submit to:

Received By:		
Signature	Please Print Name	Date

ALSO SUBMIT WITH THIS COMPLETED APPLICATION FORM AS APPLICABLE:

- 1) Provide a map of the area to be covered by the franchise and include specific locations of initial build-out, if known. Identify which facilities will be underground, ground based and aerial.
- 2) Evidence of registration in the one-number locator service, as described in RCW Chapter 19.122.
- 3) Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate, and remove the facilities.
- 4) If the initial deployment is known, an 11"x17" set of preliminary construction designs, specifications, and a map for initial deployment with sufficient detail to identify the following items:
 - a. The location and route requested for the applicant's proposed telecommunications facilities; and
 - b. The location of overhead and underground public utility, telecommunication, cable, water, sewer drainage and other lines and equipment in the rights-of-way along the proposed route; and
 - c. The specific trees, structures, improvements, facilities, lines and equipment and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate; and
 - d. If the applicant is proposing an underground installation within new ducts or conduits to be constructed within the rights-of-way and to the extent specific locations are known:
 - i. The location proposed for new ducts or conduits.
 - ii. Evidence that there is sufficient capacity within the rights-of-way for the proposed telecommunications facilities; and
 - e. Photo simulations of any small wireless facilities if such facilities are proposed which shall include a description of any interconnection and electrical requirements and a description of which structures the facilities will be connected to or attached.
- 5) A preliminary construction schedule and anticipated completion date.
- 6) Description of any zoning or land use permits that have been applied for or obtained from the city, as applicable.
- 7) List of other Washington jurisdictions in which applicant has a franchise or master permit.



INFORMATIONAL MEMORANDUM

TO: Transportation and Infrastructure Services Committee
FROM: Pete Mayer, Deputy City Administrator/ Interim Public Works Director
BY: Catrien de Boer, Public Works Analyst
CC: Mayor McLeod
DATE: March 21, 2025
SUBJECT: Surface Water Fund – S 131st St/Southgate Creek Drainage Improvements
Project No. 91641204
Dept. of Ecology Community Based Public Private Partnership (CBP3) Grant Award

ISSUE

Accept a Washington State Department of Ecology (DOE) Community Based Public Private Partnership (CBP3) grant for S 131st St/Southgate Creek Drainage Improvements project in the amount of \$602,150.00

BACKGROUND

This project builds upon the S 131st St Drainage Improvement Project to address water quality, flooding, and drainage concerns in Southgate Creek. Southgate Creek runs through and around a commercial/light industrial business community that experiences and contributes to drainage issues. A historic landslide upstream and intensive land use development have caused increased erosion and sediment transport, impacting best management practices (BMPs) in the business community and contributing to roadway flooding and stream degradation issues. The project team intends to work with private partners to take a wholistic approach to address issues that contribute to flooding, water quality, barriers to fish migration and habitat degradation in Southgate Creek.

DISCUSSION

In mid- 2024, City staff began attending the CBP3 Technical Assistance Sessions provided by the Department of Ecology, Herrera Environmental Inc, and Environmental Incentives. These sessions focused on exploring partnership and procurement options to more efficiently address stormwater concerns throughout the State. In October 2024, the City applied to the CBP3 Planning Grant and was notified that we received the full grant award early 2025.

This grant has two primary tasks.

Task 1 - CBP3 Planning: The team will develop a CBP3 toolkit consisting of planning documents which will consider traditional and alternative contracting methods to solve flooding and water quality issues and prioritize stormwater system improvements. Deliverables for this task include an engagement plan, a draft Request for Proposals, and a draft contract. It will provide the City with resources for the planning, funding, and construction of future stormwater treatment and flow control facilities.

Task 2 – Preliminary Engineering: The Team will engage a consultant to support outreach to relevant landowners, conduct a land survey, and prepare a Critical Area report of stormwater drainage in Southgate Creek, among other technical reports.

These planning tasks will inform the next phase of design and eventually construction to address water quality and alleviate flooding, among other co-benefits.

FISCAL IMPACT

The City was awarded a \$602,150 grant from the Department of Ecology for the Southgate Creek CBP3 Planning project. There is no local city match.

Project Budget

DOE Grant Award	\$602,150.00
Total	\$602,150.00

RECOMMENDATION

Council is being asked to accept a Department of Ecology Community Based Public Private Partnership (CBP3) research and planning grant, pending legal review, in the amount of \$602,150 and consider this item on the Consent Agenda at the April 7, 2025 Regular Council Meeting.

Attachments: Vicinity Map
2025-2030 CIP Page

CITY OF TUKWILA CAPITAL PROJECT SUMMARY

2025 to 2030

PROJECT:		S 131st Pl Drainage Improvements				Project #	91641204		
Project Manager		Joshua Hopkins			Department	Surface Water			
DESCRIPTION:		Developing alternate horizontal alignment for Southgate Creek in conjunction with replacing a fish barrier culvert. Scope expanded in 2024 to increase hydraulic analysis limits to address persistent flooding not addressed with the preliminary hydraulic design.							
JUSTIFICATION:		Southgate Creek overtops its bank several times per year during storm events and runs through private property. Debris is deposited within a private driveway and storm system.							
STATUS:		HPA permitted dredging is performed annually on the creek to remove excess sedimentation to reduce the likelihood of flooding.							
MAINTENANCE IMPACT:		Project will include 1-year contract maintenance and typically 2-to-4 years of plant establishment. Project improvements will be turned over to surface water division for routine maintenance.							
COMMENT:		Project applied for Department of Ecology design development funding and Conservation Futures property acquisition grant to support the expanded hydraulic analysis. Assumes estimated 2028 construction.							
FINANCIAL (in thousands)		2025	2026	2027	2028	2029	2030	Beyond	TOTAL
Project Costs									
Project Mgmt (Staff Time/Cost)		\$ 25	\$ 25	\$ -	\$ 25	\$ -	\$ -	\$ -	\$ 75
Planning		\$ 780	\$ 600	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,380
Land (R/W)		\$ 1,000	\$ 1,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,000
Construction Mgmt.		\$ -	\$ -	\$ -	\$ 400	\$ -	\$ -	\$ -	\$ 400
Construction		\$ -	\$ -	\$ -	\$ 2,000	\$ -	\$ -	\$ -	\$ 2,000
Total Project Costs		\$ 1,805	\$ 1,625	\$ -	\$ 2,425	\$ -	\$ -	\$ -	\$ 5,855
Project Funding									
Awarded Grant		\$ 706	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 706
Proposed Grant		\$ 1,105	\$ 1,625	\$ -	\$ 1,600	\$ -	\$ -	\$ -	\$ 4,330
Utility Revenues		\$ 205	\$ -	\$ -	\$ 825	\$ -	\$ -	\$ -	\$ 1,030
Total Project Funding		\$ 2,016	\$ 1,625	\$ -	\$ 2,425	\$ -	\$ -	\$ -	\$ 6,066



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



INFORMATIONAL MEMORANDUM

TO: Transportation and Infrastructure
FROM: Pete Mayer, Interim Public Works Director
BY: Shawn Christie, Fleet & Facilities Manager
Garron Herdt, Fleet Superintendent
CC: Mayor McLeod
DATE: March 21, 2025
SUBJECT: Resolution to Surplus & Sell qty 2 2017 Ford Police Interceptors

ISSUE

Approve Resolution to surplus two (2) 2017 Ford Police Interceptor Utility SUVs no longer needed by the City and authorize the sale to Skagit Valley College under the authority granted with RCW 35A.11.010.

ANALYSIS

Both police patrol vehicles have served the City for 8 years surpassing their planned 5-year life cycle and both have been replaced under the regular budgeted annual Fleet Replacement Program.

Skagit Valley College was established in 1990. The SVC PRLEA is one of six accredited academies nationwide that meets the Federal Law Enforcement Training Center's standards for commissioning of seasonal Park Rangers for Level II entry law enforcement roles for the National Park Service (NPS) and other federal agencies. In addition, the academy meets the entry-level law enforcement requirements for full-time law enforcement positions with any Washington State law enforcement agency for one year from your graduation date, as well as many other state, county, and city park agencies. Washington State's Criminal Justice Training Commission, also, recognizes the academy training as satisfying the requirement for Law Enforcement Reserve Officer status.

FISCAL IMPACT

Public auction venues of outfitted police vehicles require extensive fleet shop time to remove components such as the lighting and all agency decals. Selling these vehicles to Skagit Valley College provides savings for the City by eliminating the majority of the fleet decommissioning process

Both vehicles are fully depreciated and are currently valued at \$9,000, established by analyzing past auction revenue for similar vehicle make and model.

Revenue generated from the surplus process is returned to the 501 Fleet Equipment Rental fund which originated the purchase.

RECOMMENDATION

Council is being asked to approve the Resolution declaring the 2 Police Interceptors, estimated value at \$9,000, as surplus and authorize their sale, and to consider this item on the Consent Agenda for the April 7, 2025 Regular Council Meeting.

Attachments:

Draft Resolution, Exhibit A Surplus Equipment List, Exhibit B Surplus Equipment Photos

DRAFT

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TUKWILA, WASHINGTON, DECLARING CERTAIN POLICE
VEHICLES SURPLUS, AND AUTHORIZING THEIR SALE OR
DISPOSAL.**

WHEREAS, the City of Tukwila leased new Police Patrol vehicles as part of the annual fleet replacement program replacing two 2017 Police Interceptors; and

WHEREAS, the two vehicles described and depicted on Exhibits A and B, have a combined estimated salvage value of \$9,000; and

WHEREAS, the vehicles described and depicted on Exhibits A and B have outlived their usefulness and are no longer needed by the City of Tukwila's Fleet (Equipment Rental) Department, the Police Department, or any other City Department; and

WHEREAS, the City of Tukwila has statutory authority to dispose of personal property under RCW 39.33.010, provided such personal property is declared surplus to the City's needs;

WHEREAS, the City of Tukwila may sell the vehicles to Skagit Valley College on such terms and conditions that may be mutually agreed upon; and

WHEREAS, Skagit Valley College has authorized its staff to purchase Tukwila's two Police Interceptors; and

WHEREAS, Skagit Valley College's administration has sent an intent to purchase said vehicles;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Declaration of Surplus. The two 2017 Police Interceptor vehicles described and depicted on the attached Exhibits A and B are hereby declared surplus.

Section 2. Mayor or Designee authorized to sell. The Mayor or designee, as part of the City's replacement program, is hereby authorized to sell the two vehicles described and depicted in the inventory list and photographs on Exhibits A and B,

respectively, to Skagit Valley College for the mutually agreed upon full value of \$9,000.00.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2025.

ATTEST/AUTHENTICATED:

Andy Youn-Barnett, CMC, City Clerk

Tosh Sharp, Council President

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Resolution Number: _____

Office of the City Attorney

Exhibit A: 2025 Fleet Surplus List (Skagit Valley College)

Exhibit B: 2025 Fleet Surplus Equipment (Skagit Valley College) – Photographs

2025 FLEET SURPLUS (Skagit Valley College) - Exhibit A

RES #	EQ#	DIV	O&M ACCT	Dept	Yr	Description	Color	Serial Number / Vehicle Identification Number	License	Meter	EST. SALVAGE VALUE	SURPLUS HOUSE	REVENUE YEAR
NO 2024	1765	PD SPEC OPS	PD010260	PD	2017	PATROL, FORD POLICE INTERCEPTOR UTILITY SUV AWD	BLACK / WHITE	1FM5K8AR6HGD93772	62570D	62,889	\$4,500	SKAGIT VALLEY COLLEGE	2025
NO 2024	1766	PD PATROL	PD010220	PD	2017	PATROL, FORD POLICE INTERCEPTOR UTILITY SUV AWD	BLACK / WHITE	1FM5K8AR0HGD93766	61493D	88,294	\$4,500	SKAGIT VALLEY COLLEGE	2025
TOTAL	2										\$9,000		

2025 Fleet Surplus (Skagit Valley College) – Exhibit B



Unit 1765, 2017 FORD POLICE INTERCEPTOR UTILITY SUV
AWD, License 62570D, VIN 1FM5K8AR6HGD93772.
Odometer 62,889. Estimated value: \$4,500.



Unit 1766, 2017 FORD POLICE INTERCEPTOR UTILITY SUV
AWD, License 61493D, VIN 1FM5K8AR0HGD93766.
Odometer 88,294. Estimated value: \$4,500.



INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Committee**
FROM: **Pete Mayer, Interim Public Works Director**
BY: **Cyndy Knighton, Senior Program Manager – Transportation**
CC: **Thomas McLeod, Mayor**
DATE: **March 21, 2025**
SUBJECT: **Resolution for Adoption of the Local Road Safety Plan**

ISSUE

Approve a Resolution adopting the Local Road Safety Plan

BACKGROUND

Beginning in January 2024, staff began working on developing a new initiative - a Local Road Safety Plan. A Safe Streets For All (SS4A) grant had been awarded to Tukwila in 2023 for the development of an LRSP. The consultant team at Fehr & Peers was selected for this effort. The LRSP (attached) was developed along with the recent update to the Transportation Element (TE) of the Comprehensive Plan (also done with support from Fehr & Peers), which was just adopted in December 2024. The TE includes multiple goals and policies around providing a safe transportation network for all users. A major implementation strategy to work toward achieving the City's safety goals is adoption and implementation of the LRSP.

Guidance in developing the LRSP was also provided through the formation of a Task Force, which is a required element of the LRSP. The Task Force members were made up of City staff from multiple departments, Puget Sound Regional Fire Authority, Tukwila School District, and King County. The attached Informational Memorandum dated March 22, 2024, that was presented to the TISC includes additional information on the Task Force's role and membership.

DISCUSSION

The LRSP identifies needed safety improvements to Tukwila's transportation system and prioritizes the highest needs. This roadmap supports the goal of eliminating serious injuries and fatalities on city streets. In addition to the many safety policies included in the TE, the LRSP establishes a specific Vision Zero Goal:

Tukwila's goal is to eliminate all serious injury and fatal crashes by 2044 with a 50% reduction by 2034 and a reevaluation of progress being made every 2-3 years.

The High Injury Network (HIN) map, shown on page 4 of the attached LRSP, shows where the highest levels of traffic-related injuries and fatalities have occurred on city streets between 2018-2022. The map on the following page shows the top 10 recommended projects for development and implementation in the near term. Some of these recommended projects are in the current Capital Improvement Program (CIP). Future updates will identify new top priority projects as well as report on progress made toward achieving the City's Vision Zero goal. These top priority projects will be included in future CIPs for funding and implementation. The existing Neighborhood Traffic Calming Program (NTCP) can also be used to address smaller spot locations needing safety and livability improvements within residential areas.

FINANCIAL IMPACT

Adopting the LRSP does not have direct financial impacts, but implementation of the plan will. However, having an adopted LRSP is a requirement for future grants through the Safe Streets For All (SS4A) grant, a newer federal program, and is becoming a recommended, and potentially required, element for other grant sources the City typically pursues.

RECOMMENDATION

The Council is being asked to approve the Resolution adopting the Local Road Safety Plan and consider this item at the April 14, 2025 Committee of the Whole meeting, and subsequent April 21, 2025 Regular Meeting.

ATTACHMENTS

- Draft Resolution
- Local Road Safety Plan - [Local Road Safety Plan Doc](#)
- Informational Memorandum, Local Road Safety Plan Update, March 22, 2024
- Safe Streets and Roads for All Self-Certification Eligibility Worksheet
- LRSP Relationship to Planning and Financing Efforts

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TUKWILA, WASHINGTON, ADOPTING THE 2025 LOCAL
ROAD SAFETY PLAN AND COMMITTING TO VISION ZERO
TRANSPORTATION SAFETY GOALS**

WHEREAS, the City of Tukwila included safety goals and policies in the 2024 Transportation Element of the Comprehensive Plan update and identified the need for city-wide safety improvements; and

WHEREAS, the City has developed a comprehensive Local Road Safety Plan (LRSP) that uses crash data, community input, and equity considerations to identify and prioritize locations with a history of crashes that led to fatalities or serious injuries and locations with risk factors that indicate a higher probability of crashes that may lead to fatalities or serious injuries; and

WHEREAS, the LRSP identifies actions intended to reduce the likelihood of serious injury and fatality crashes at the priority locations through a safe systems approach; and

WHEREAS, actions include establishing safety emphasis corridors and a list of countermeasures intended to potentially reduce the likelihood of serious injury and fatal crashes; and

WHEREAS, actions include identification of projects that address vulnerable roadway users (e.g., bicyclists, pedestrians, and motorcyclists), roadways where speed reductions, lane modifications, and/or street lighting could help potentially reduce serious injury and fatal crashes; and

WHEREAS, the City of Tukwila is committed to a goal to reduce serious injury and fatal crashes with a vision to eventually have zero roadway serious injuries; and

WHEREAS, the preparation, adoption, and implementation of the LRSP followed by periodic updates to the LRSP will help the City work towards its goal and vision.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA,
WASHINGTON, HEREBY RESOLVES AS FOLLOWS:**

Section 1. The 2025 Local Road Safety Plan (LRSP) attached as Exhibit A is hereby adopted.

Section 2. The Mayor, or their designee, is authorized to prepare periodic updates and modifications to the LRSP, including adjustments to the goal as needed to maintain realistic progress toward the vision, subject to Council approval.

Section 3. The City of Tukwila's goal is to eliminate all serious injury and fatal crashes by 2044, with a 50% reduction by 2034, and a reevaluation of the progress being made every 2-3 years.

Section 4. Should any section, subsection, paragraph, sentence, clause or phrase of the Local Road Safety Plan or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this resolution or its application to any other person or situation.

Section 5. This resolution shall take effect immediately upon passage by the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON,
at a Regular Meeting thereof this _____ day of _____, 2025.

ATTEST/AUTHENTICATED:

Andy Youn-Barnett, CMC, City Clerk

Tosh Sharp, Council President

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Resolution Number: _____

Office of the City Attorney

Attachment: Exhibit A - Local Roads Safety Plan



INFORMATIONAL MEMORANDUM

TO: **Transportation and Infrastructure Services Committee**
 FROM: **Hari Ponnekanti, Public Works Director**
 BY: **Cyndy Knighton, Senior Program Manager – Transportation**
 CC: **Thomas McLeod, Mayor**
 DATE: **March 22, 2024**
 SUBJECT: **Local Road Safety Plan Update**
 Project No. 82010405
 Task Force

ISSUE

Update the Transportation and Infrastructure Services Committee on the background and current work associated with the Local Road Safety Plan (LRSP) that is funded through a federal Safe Streets and Roads for All (SS4A) grant.

BACKGROUND

In 2023, the City was awarded a \$200,000 grant to develop an LRSP aimed at preventing fatal and serious injury crashes for all modes. The grant requires the plan to accommodate all users of the transportation system (Complete Streets) and be consistent, systematically fair, and impartial of all individuals (Equity), as well as addressing underserved or disadvantaged communities (Climate Justice). The LRSP will analyze collision trends and identify priority locations for roadway safety on public roads using a systemic and data-driven approach. It will develop planning-level projects, strategies, and timelines for deploying low-cost high-impact countermeasures to address Tukwila's unique needs. Tukwila's development of this plan is being done concurrent with the Transportation Element (TE) update, as many of the goals and policies mirror those in a LRSP. Including the needs for safety improvements in the TE will also provide a comprehensive understanding of all transportation needs throughout Tukwila.

DISCUSSION

One key component of the LRSP development is forming a local Task Force or similar body charged with the oversight of the LRSP development, implementation, and monitoring of the action plan. Staff are currently working to put together the task force, which can include various stakeholders such as city staff, residents, businesses, partner agencies, and local officials. The Task Force is anticipated to meet three times throughout the LRSP development and will continue to meet likely once or twice per year thereafter for monitoring of the program's success and recommending future priorities for budgeting. A smaller committee is generally preferred over a larger one for ease of management. Membership can be rotated after the plan development to minimize time commitments to the non-staff positions and to ensure a variety of voices are heard during implementation and monitoring efforts.

FINANCIAL IMPACT

None.

RECOMMENDATION

Discussion Only.

ATTACHMENTS

Self-Certification Checklist.

All applicants should follow the instructions in the NOFO to correctly apply for a grant. See the [SS4A website](#) for more information.

Table 1 of the SS4A NOFO describes [eight components of an Action Plan](#), which correspond to the questions in this worksheet. Applicants should use this worksheet to determine whether their existing plan(s) contains the required components to be considered an eligible Action Plan for SS4A.

This worksheet is required for all SS4A **Implementation Grant** applications and any **Planning and Demonstration Grant applications to conduct Supplemental Planning/Demonstration Activities only**. Please complete the form in its entirety, do not adjust the formatting or headings of the worksheet, and upload the completed PDF with your application.

Eligibility

An Action Plan is considered eligible for an SS4A application for an Implementation Grant or a Planning and Demonstration Grant to conduct Supplemental Planning/Demonstration Activities if the following two conditions are met:

- You can answer "YES" to Questions **3, 7, and 9** in this worksheet; *and*
- You can answer "YES" to **at least four of the six remaining** Questions, **1, 2, 4, 5, 6, and 8**.

If both conditions are not met, an applicant is still eligible to apply for a Planning and Demonstration Grant to fund the creation of a new Action Plan or updates to an existing Action Plan to meet SS4A requirements.

Applicant Information

Lead Applicant:

UEI:

Action Plan Documents

In the table below, list the relevant Action Plan and any additional plans or documents that you reference in this form. Please provide a hyperlink to any documents available online or indicate that the Action Plan or other documents will be uploaded in Valid Eval as part of your application. Note that, to be considered an eligible Action Plan for SS4A, the plan(s) coverage must be broader than just a corridor, neighborhood, or specific location.

Document Title	Link	Date of Most Recent Update



Action Plan Components

For each question below, answer "YES" or "NO." If "YES," list the relevant plan(s) or supporting documentation that address the condition and the specific page number(s) in each document that corroborates your response. This form provides space to reference multiple plans, but please list only the most relevant document(s).

1. Leadership Commitment and Goal Setting

Are **BOTH** of the following true?

- A high-ranking official and/or governing body in the jurisdiction publicly committed to an eventual goal of zero roadway fatalities and serious injuries; and
- The commitment includes either setting a target date to reach zero OR setting one or more targets to achieve significant declines in roadway fatalities and serious injuries by a specific date.

YES

NO

Note: This may include a resolution, policy, ordinance, executive order, or other official announcement from a high-ranking official and the official adoption of a plan that includes the commitment by a legislative body.

If "YES," please list the relevant document(s) and page number(s) that corroborate your response.

Document Title	Page Number(s)

2. Planning Structure

To develop the Action Plan, was a committee, task force, implementation group, or similar body established and charged with the plan's development, implementation, and monitoring?

YES

NO

Note: This should include a description of the membership of the group and what role they play in the development, implementation, and monitoring of the Action Plan.

If "YES," please list the relevant document(s) and page number(s) that corroborate your response.

Document Title	Page Number(s)



3. Safety Analysis

Does the Action Plan include **ALL** of the following?

- Analysis of existing conditions and historical trends to provide a baseline level of crashes involving fatalities and serious injuries across a jurisdiction, locality, Tribe, or region;
- Analysis of the location where there are crashes, the severity, as well as contributing factors and crash types;
- Analysis of systemic and specific safety needs, as needed (e.g., high-risk road features or specific safety needs of relevant road users); and,
- A geospatial identification (geographic or locational data using maps) of higher risk locations.

YES

NO

Note: Availability and level of detail of safety data may vary greatly by location. The [Fatality and Injury Reporting System Tool \(FIRST\)](#) provides county- and city-level data. When available, local data should be used to supplement nationally available data sets.

If "YES," please list the relevant document(s) and page number(s) that corroborate your response.

Document Title	Page Number(s)

4. Engagement and Collaboration

Did the Action Plan development include **ALL** of the following activities?

- Engagement with the public and relevant stakeholders, including the private sector and community groups;
- Incorporation of information received from the engagement and collaboration into the plan; and
- Coordination that included inter- and intra-governmental cooperation and collaboration, as appropriate.

YES

NO

Note: This should be a description of public meetings, participation in public and private events, and proactive meetings with stakeholders.

If "YES," please list the relevant document(s) and page number(s) that corroborate your response.

Document Title	Page Number(s)



5. Equity Considerations

Did the Action Plan development include **ALL** of the following?

YES

NO

- Considerations of equity using inclusive and representative processes;
- The identification of underserved communities through data; and
- Equity analysis developed in collaboration with appropriate partners, including population characteristics and initial equity impact assessments of proposed projects and strategies.

Note: This should include data that identifies underserved communities and/or reflects the impact of crashes on underserved communities, prioritization criteria that consider equity, or a description of meaningful engagement and collaboration with appropriate stakeholders.

If "YES," please list the relevant document(s) and page number(s) that corroborate your response.

Document Title	Page Number(s)

6. Policy and Process Changes

Are **BOTH** of the following true?

YES

NO

- The plan development included an assessment of current policies, plans, guidelines, and/or standards to identify opportunities to improve how processes prioritize safety; and
- The plan discusses implementation through the adoption of revised or new policies, guidelines, and/or standards.

Note: This may include existing and/or recommended Complete Streets policy, guidelines for community engagement and collaboration, policy for prioritizing areas of greatest need, local laws (e.g., speed limit), design guidelines, and other policies and processes that prioritize safety.

If "YES," please list the relevant document(s) and page number(s) that corroborate your response.

Document Title	Page Number(s)



7. Strategy and Project Selections

Does the plan identify a comprehensive set of projects and strategies to address the safety problems in the Action Plan, with information about time ranges when projects and strategies will be deployed, and an explanation of project prioritization criteria?

YES

NO

Note: This should include one or more lists of community-wide multi-modal and multi-disciplinary projects that respond to safety problems and reflect community input and a description of how your community will prioritize projects in the future.

If "YES," please list the relevant document(s) and page number(s) that corroborate your response.

Document Title	Page Number(s)

8. Progress and Transparency

Does the plan include **BOTH** of the following?

YES

- A description of how progress will be measured over time that includes, at a minimum, outcome data.
- The plan is posted publicly online.

NO

Note: This should include a progress reporting structure and list of proposed metrics.

If "YES," please list the relevant document(s) and page number(s) that corroborate your response.

Document Title	Page Number(s)

9. Action Plan Date

Was at least one of your plans finalized and/or last updated between 2019 and April 30, 2024?

YES

NO

Note: Updates may include major revisions, updates to the data used for analysis, status updates, or the addition of supplemental planning documents, including but not limited to an Equity Plan, one or more Road Safety Audits conducted in high-crash locations, or a Vulnerable Road User Plan.

If "YES," please list your most recent document(s), date of finalization, and page number(s) that corroborate your response.

Document Title	Date of Most Recent Update	Page Number(s)



Relationship to other planning and financial efforts.

