RESOLUTION NO. 41565

AN RESOLUTION relating to telecommunications and franchise services; authorizing a transfer of a telecommunications system set forth in Schedule I from Unite Private Networks, LLC to Ziply Fiber Pacific LLC dba Ziply Fiber to construct, operate, and maintain subject to the provisions of Ziply Fiber's existing telecommunications franchise, the Tacoma Municipal Code and Tacoma City Charter.

WHEREAS Tacoma Municipal Code Title 16B.02.120 ("TMC 16.B") requires prior written notice to and approval of the Council of the City of Tacoma of a transfer or a telecommunications system, and

WHEREAS Unite Private Networks, LLC was granted a limited franchise under Ordinance No. 28979 to operate a telecommunications system in the City of Tacoma as described in Schedule I ("Franchised Area") for a term of ten years effective October 3, 2024, and

WHEREAS Ziply Fiber was granted a franchise under Ordinance No. 28956 to operate a telecommunications system in the City of Tacoma for a term of ten years effective April 16, 2024, and

WHEREAS Unite Private Networks, LLC has entered into an agreement to sell its telecommunications system in the City of Tacoma and desires to assign its rights from the limited franchise granted under Ordinance No. 28979 to operate that telecommunications system in the City of Tacoma to the Ziply Fiber;

WHEREAS Ziply Fiber desires to accept and assume all of the rights from the limited franchise granted under Ordinance No. 28979 to operate the telecommunications system in the City of Tacoma as described in Schedule I as

a part of and according to the terms and conditions of its existing franchise under Ordinance No. 28956, and

WHEREAS Ziply Fiber agrees it will abide by and accept all lawful terms of TMC 16B and it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the Unite Private Networks, LLC under TMC 16B and the limited franchise granted under Ordinance No. 28979 for all purposes as a part of and according to the terms and conditions of its existing franchise granted under Ordinance No. 28956, and

WHEREAS Ziply Fiber agrees that all of ZIPLY's future operations regarding the beforementioned telecommunications systems in the City of Tacoma shall be governed under the terms and conditions of its existing franchise granted under Ordinance No. 28956, and

WHEREAS Unite Private Networks, LLC agrees that upon the Asset Purchase Agreement dated August 23, 2024 ("Closing") or the approval of this transfer by the Council of the City of Tacoma, whichever is later, that all of the terms and conditions of the franchise granted under Ordinance No. 28979 shall no longer apply and Unite Private Networks, LLC relinquishes all the rights provided to it therein, and

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the Council of the City of Tacoma approves the proposed transfer of Unite Private Networks, LLC's telecommunications system in the City of Tacoma as described in Ordinance No. 28979, Schedule I ("Franchised Area") from Unite Private Networks, LLC to Ziply Fiber which shall be a part of the

telecommunications system of Ziply Fiber's existing franchise under Ordinance No. 28956 and governed by the terms and conditions set forth therein, effective upon Closing or the approval of this transfer by the Council of the City of Tacoma, whichever is later, at which time the limited franchise under Ordinance No. 28979 shall be of no further force and effect.

Adopted _____

Mayor: _____

Attest: City Clerk

_____

Approved as to form

_____
Deputy City Attorney

SCHEDULE I

"Franchised Area"

A meandering 5 Foot wide strip lying within the northerly 75 feet of the Port of Tacoma Road Right of Way described as follows:

Beginning at a point 45 Feet easterly of the intersection of East 11th Street, as vacated by City of Tacoma Ordinance 15312 dated April 18, 1955 and the extended northerly margin of Port of Tacoma Road as dedicated per the Corrected Plat of Port of Tacoma Industrial Development District, First Addition recorded March 20, 1957 under Auditor's File Number 1782439, records of Pierce County, Washington; thence Southeasterly, within said Port of Tacoma Road Right of Way, to a point lying 250 Feet Easterly of the easterly margin of Lincoln Avenue and the Terminus of this described strip.

As further depicted within the As-Build drawings attached hereto and incorporated herein by this reference.

All situate in the Northeast and Southeast Quarter of Section 34, and the Southwest Quarter of Section 35, Township 21 North, Range 3 East of the W.M., City of Tacoma, County of Pierce, State of Washington

Together with

ALL THAT PORTION OF THE FOLLOWING DESCRIBED 5 FOOT WIDE STRIP OF LAND LYING WITHIN THE EAST 11TH STREET, MILWAUKEE WAY AND LINCOLN AVENUE RIGHT OF WAYS, LYING 2.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

COMMENCING AT A BRASS DISK AT THE INTERSECTION OF EAST 11TH STREET AND TAYLOR WAY, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 184, AS SHOWN ON PORT OF TACOMA 2007 SURVEY CONTROL MAP TITLED "BLAIR-HYLEBOS PENINSULA SURVEY CONTROL MAP"; THENCE SOUTH 44°06'22" WEST, 4,652.71 FEET TO A BRASS DISK SET IN A MONUMENT CASE AT THE INTERSECTION OF EAST 11TH STREET AND THORNE ROAD, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 925 AS SHOWN ON AFORESAID MAP;
THENCE SOUTH 50°20'25" WEST, 830.42 FEET, MORE OR LESS, TO THE NORTHERN MARGIN OF EAST 11TH STREET AND THE POINT OF BEGINNING; THENCE SOUTH 43°27'34" EAST ALONG AN UNDERGROUND CONDUIT ROUTE, 125.15 FEET;

THENCE SOUTH 43°44'19" WEST, 113.27 FEET TO A POLE AND TRANSITION TO AERIAL CABLE ROUTE;
THENCE CONTINUING SOUTH 43°44'19" WEST ALONG SAID AERIAL CABLE ROUTE, 54.06 FEET;
THENCE SOUTH 30°49'29" EAST, 1444.88 FEET;
THENCE SOUTH 29°39'29" EAST, 213.86 FEET;
THENCE SOUTH 27°40'58" EAST, 255.85 FEET; THENCE SOUTH 26°57'56" EAST, 246.82 FEET; THENCE SOUTH 29°27'07" EAST, 250.17 FEET;
THENCE SOUTH 35°28'43" EAST, 246. 79 FEET; THENCE SOUTH 29° 24'46" EAST, 253.39 FEET;
THENCE NORTH 59°58'41" EAST, 91.67 FEET TO A POLE AND TRANSITION TO UNDERGROUND CONDUIT ROUTE;
THENCE SOUTH 06°02'25" WEST ALONG SAID UNDERGROUND CONDUIT ROUTE, 27.20 FEET;
THENCE SOUTH 31°27'14" EAST, 351.14 FEET;
THENCE SOUTH 39°46'07" EAST, 89.31 FEET;
THENCE SOUTH 52°47'35" EAST, 9.53 FEET;
THENCE SOUTH 79°15'18" EAST, 9.53 FEET;
THENCE NORTH 89° 29'00" EAST, 18.95 FEET;
THENCE SOUTH 77°10'44" EAST, 12.15 FEET; THENCE SOUTH 51°15'42" EAST, 14.59 FEET; THENCE SOUTH 04°14'24" EAST, 85.59 FEET; THENCE SOUTH 13°33'24" EAST, 14.48 FEET; THENCE SOUTH 30°08'00" EAST, 14.48 FEET;
THENCE SOUTH 41°36'50" EAST, 102.36 FEET, MORE OR LESS, TO THE EASTERN MARGIN OF MILWAUKEE WAY AND THE TERMINUS OF THIS DESCRIBED LINE.

THE SIDELINES OF WHICH ARE TO BE LENGTHENED OR SHORTENED AS NEEDED TO INTERSECT EACH OTHER AT ALL ANGLE POINTS AND THE MARGINS OF EAST 11TH STREET, MILWAUKEE WAY AND LINCOLN AVENUE.

TOGETHER WITH
ALL THAT PORTION OF THE FOLLOWING DESCRIBED 5 FOOT WIDE STRIP OF LAND LYING WITHIN THE MARSHALL AVENUE RIGHT OF WAY, LYING 2.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

COMMENCING AT A BRASS DISK AT THE INTERSECTION OF EAST 11 TH STREET AND TAYLOR WAY, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 184, AS SHOWN ON PORT OF TACOMA 2007 SURVEY CONTROL MAP TITLED "BLAIR-HYLEBOS PENINSULA SURVEY CONTROL MAP"; THENCE SOUTH 44'06'22" WEST, 4,652.71 FEET TO A BRASS DISK SET IN A MONUMENT CASE AT THE INTERSECTION OF EAST 11TH STREET AND THORNE ROAD, SAID MONUMENT ALSO

BEING PORT OF TACOMA CONTROL POINT NO. 925 AS SHOWN ON AFORESAID MAP;
THENCE SOUTH 21° 29'58" EAST, 4,968.41 FEET, MORE OR LESS, TO THE NORTHERN MARGIN OF MARSHALL AVENUE AND THE POINT OF BEGINNING; THENCE SOUTH 38° 13'32" EAST ALONG A UNDERGROUND CONDUIT ROUTE, 2.42 FEET;
THENCE SOUTH 79°47'16" EAST, 3.98 FEET;
THENCE NORTH 58°39'00" EAST, 27.02 FEET;
THENCE SOUTH 31°21'00" EAST, 75.20 FEET, MORE OR LESS, TO THE SOUTHERN MARGIN OF SAID MARSHALL AVENUE AND THE TERMINUS OF THIS DESCRIBED LINE.

THE SIDELINES OF WHICH ARE TO BE LENGTHENED OR SHORTENED AS NEEDED TO INTERSECT EACH OTHER AT ALL ANGLE POINTS AND THE MARGINS OF MARSHALL AVENUE.

TOGETHER WITH
ALL THAT PORTION OF THE FOLLOWING DESCRIBED 5 FOOT WIDE STRIP OF LAND LYING WITHIN THE PORT OF TACOMA ROAD RIGHT OF WAY, LYING 2.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:

COMMENCING AT A BRASS DISK AT THE INTERSECTION OF EAST 11TH STREET AND TAYLOR WAY, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 184, AS SHOWN ON PORT OF TACOMA 2007 SURVEY CONTROL MAP TITLED "BLAIR-HYLEBOS PENINSULA SURVEY CONTROL MAP"; THENCE SOUTH 44°06'22" WEST, 4,652.71 FEET TO A BRASS DISK SET IN A MONUMENT CASE AT THE INTERSECTION OF EAST 11TH STREET AND THORNE ROAD, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 925 AS SHOWN ON AFORESAID MAP;
THENCE SOUTH 41°56'25" WEST, 8,773.94 FEET, MORE OR LESS, TO THE WESTERN MARGIN OF PORT OF TACOMA ROAD AND THE POINT OF BEGINNING;
THENCE NORTH 77°45'15" EAST ALONG AN UNDERGROUND CONDUIT ROUTE, 48.24 FEET;
THENCE SOUTH 75°04'30" EAST, 132.35 FEET;
THENCE NORTH 71°48'57" EAST, 9.40 FEET;
THENCE NORTH 10°20'58" EAST, 19.84 FEET;
THENCE NORTH 38°28'24" EAST, 101.73 FEET, MORE OR LESS, TO THE EASTERN MARGIN OF SAID PORT OF TACOMA ROAD AND THE TERMINUS OF THIS DESCRIBED LINE.

THE SIDELINES OF WHICH ARE TO BE LENGTHENED OR SHORTENED AS NEEDED TO INTERSECT EACH OTHER AT ALL ANGLE POINTS AND THE MARGINS OF PORT OF TACOMA ROAD.
TOGETHER WITH
ALL THAT PORTION OF THE FOLLOWING DESCRIBED 5 FOOT WIDE STRIP OF LAND LYING WITHIN THE ALEXANDER AVENUE RIGHT OF WAY, LYING 2.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:
COMMENCING AT A BRASS DISK AT THE INTERSECTION OF EAST 11TH STREET AND TAYLOR WAY, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 184, AS SHOWN ON PORT OF TACOMA 2007 SURVEY CONTROL MAP TITLED "BLAIR-HYLEBOS PENINSULA SURVEY CONTROL MAP"; THENCE SOUTH 44°06'22" WEST, 4,652.71 FEET TO A BRASS DISK SET IN A MONUMENT CASE AT THE INTERSECTION OF EAST 11TH STREET AND
THORNE ROAD, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 925 AS SHOWN ON AFORESAID MAP;
THENCE SOUTH 64°21'18" EAST, 10,141.65 FEET, MORE OR LESS, TO THE WESTERN MARGIN OF ALEXANDER AVENUE AND THE POINT OF BEGINNING; THENCE SOUTH 08°11'07" EAST ALONG AN AERIAL CABLE ROUTE, 130.23 FEET TO A POLE AND TRANSITION TO UNDERGROUND CONDUIT ROUTE;
THENCE SOUTH 12°53'24" EAST ALONG SAID UNDERGROUND CONDUIT ROUTE, 13.31 FEET;
THENCE SOUTH 08°08'20" EAST, 6.75 FEET;
THENCE SOUTH 23°15'58" WEST, 2.59 FEET;
THENCE SOUTH 48°49'20" WEST, 11.63 FEET;
THENCE SOUTH 25°42'23" WEST, 2.36 FEET;
THENCE SOUTH 02°35'25" WEST, 5.62 FEET;
THENCE SOUTH 06°36'02" EAST, 92.60 FEET;
THENCE SOUTH 01°03'53" EAST, 53.13 FEET;
THENCE SOUTH 00°49'08" WEST, 53.30 FEET;
THENCE NORTH 90°00'00" EAST, 40.91 FEET;
THENCE SOUTH 00°00'00" EAST, 85.79 FEET;
THENCE SOUTH 22°27'52" WEST, 4.48 FEET;
THENCE NORTH 87°10'43" WEST, 44.80 FEET;
THENCE NORTH 88°37'36" WEST, 31.06 FEET, MORE OR LESS, TO THE WESTERN MARGIN OF ALEXANDER AVENUE AND THE TERMINUS OF THIS DESCRIBED LINE.
THE SIDELINES OF WHICH ARE TO BE LENGTHENED OR SHORTENED AS NEEDED TO INTERSECT EACH OTHER AT ALL ANGLE POINTS AND THE MARGINS OF ALEXANDER AVENUE.
TOGETHER WITH

ALL THAT PORTION OF THE FOLLOWING DESCRIBED 5 FOOT WIDE STRIP OF LAND LYING WITHIN THE ALEXANDER AVENUE RIGHT OF WAY, LYING
2.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:
COMMENCING AT A BRASS DISK SET IN A MONUMENT CASE AT THE INTERSECTION OF EAST 11TH STREET AND THORNE ROAD, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 925, AS SHOWN ON PORT OF TACOMA 2007 SURVEY CONTROL MAP TITLED "BLAIR-HYLEBOS PENINSULA SURVEY CONTROL MAP"; THENCE NORTH 44°06'22" EAST, 4652.71 FEET TO A BRASS DISK AT THE INTERSECTION OF EAST 11TH STREET AND TAYLOR WAY, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 184 AS SHOWN ON AFORESAID MAP;
THENCE SOUTH 46°03'53" WEST, 713.74 FEET, MORE OR LESS, TO THE WESTERN MARGIN OF ALEXANDER AVENUE AND THE POINT OF BEGINNING; THENCE NORTH 39°13'35" EAST ALONG AN UNDERGROUND CONDUIT ROUTE, 3.70 FEET;
THENCE NORTH 06°21 '13" WEST, 10.84 FEET
THENCE NORTH 32°48'31" EAST, 18.14 FEET TO A POLE AND TRANSITION TO AN AERIAL CABLE ROUTE;
THENCE SOUTH 43°35'16" EAST, 553.55 FEET;
THENCE SOUTH 45°53'19" EAST, 1,066.87 FEET;
THENCE SOUTH 45°28'32" EAST, 539.86 FEET;
THENCE SOUTH 46°27'17" EAST, 317.66 FEET;
THENCE SOUTH 45°50'47" EAST, 488.10 FEET;
THENCE SOUTH 46°06'51" EAST, 521.77 FEET;
THENCE SOUTH 45°27'54" EAST, 636.20 FEET;
THENCE SOUTH 46°08'28" EAST, 211.08 FEET;
THENCE SOUTH 45°47'47" EAST, 642.45 FEET;
THENCE SOUTH 46°18'25" EAST, 204.48 FEET;
THENCE SOUTH 45°54'44" EAST, 633.99 FEET;
THENCE SOUTH 17°11 '43" WEST, 25.62 FEET, MORE OR LESS, TO THE WESTERN MARGIN OF ALEXANDER AVENUE AND THE TERMINUS OF THIS DESCRIBED LINE.
THE SIDELINES OF WHICH ARE TO BE LENGTHENED OR SHORTENED AS NEEDED TO INTERSECT EACH OTHER AT ALL ANGLE POINTS AND THE MARGINS OF ALEXANDER AVENUE.
TOGETHER WITH
ALL THAT PORTION OF THE FOLLOWING DESCRIBED 5 FOOT WIDE STRIP OF LAND LYING WITHIN THE EAST 11TH STREET RIGHT OF WAY, LYING 2.5 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTER LINE:
COMMENCING AT A BRASS DISK AT THE INTERSECTION OF EAST 11TH STREET AND TAYLOR WAY, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 184, AS SHOWN ON PORT OF TACOMA

2007 SURVEY CONTROL MAP TITLED "BLAIR-HYLEBOS PENINSULA SURVEY CONTROL MAP"; THENCE SOUTH 44°06'22" WEST, 4,652.71 FEET TO A BRASS DISK SET IN A MONUMENT CASE AT THE INTERSECTION OF EAST 11TH STREET AND THORNE ROAD, SAID MONUMENT ALSO BEING PORT OF TACOMA CONTROL POINT NO. 925 AS SHOWN ON AFORESAID MAP;
THENCE SOUTH 46°53'16" WEST, 1,034.56 FEET, MORE OR LESS, TO THE NORTHERN MARGIN OF EAST 11TH STREET AND THE POINT OF BEGINNING; THENCE SOUTH 29°02'00" EAST ALONG A UNDERGROUND CONDUIT ROUTE, 104.58 FEET, MORE OR LESS, TO THE SOUTHERN MARGIN OF SAID EAST 11TH STREET AND THE TERMINUS OF THIS DESCRIBED LINE.
THE SIDELINES OF WHICH ARE TO BE LENGTHENED OR SHORTENED AS NEEDED TO INTERSECT EACH OTHER AT ALL ANGLE POINTS AND THE MARGINS OF EAST 11TH STREET.
NOTE: THE TOTAL LENGTH OF AERIAL LINE IS 9,029 FEET AND THE TOTAL LENGTH OF THE UNDERGROUND LINE IS 1,994 FEET. TOTAL OVERALL LENGTH FOR BOTH LINES IS 11,023 FEET.