

ORDINANCE NO. 938

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON EXTENDING AND RESTATING THE FRANCHISE GRANTED BY ORDINANCE NO. 522, AS AMENDED BY ORDINANCE NO. 905, FOR A NON-EXCLUSIVE FRANCHISE TO FRONTIER COMMUNICATIONS NORTHWEST, LLC (DBA ZIPLY FIBER) TO CONSTRUCT, MAINTAIN, OPERATE, AND REPAIR A CABLE SYSTEM IN, ON, ACROSS, OVER, ALONG, UNDER, UPON, THROUGH, AND BELOW PUBLIC RIGHTS-OF-WAY OF THE CITY OF SHORELINE, WASHINGTON TO PROVIDE CABLE SERVICES.

WHEREAS, on October 27, 2008, pursuant to RCW 35A.11.020, RCW 35A.47.040, and Chapter 12.25 SMC, the Shoreline City Council passed Ordinance No. 522 granting a twelve-year non-exclusive franchise for a cable system within the public-rights-of-way of the City to Verizon Northwest, Inc; and

WHEREAS, with the passage of Resolution No. 289, the Franchise was transferred to Frontier Communications Corporation and, with the passage of Resolution No. 443, the Franchise was transferred to Northwest Fiber LLC, now known as Frontier Communications Northwest, LLC (dba Ziplly Fiber); and

WHEREAS, on October 19, 2020, the City Council extended the Franchise one (1) year to allow for continued negotiations, with the Franchise terminating on November 4, 2021; and

WHEREAS, in 2020, Northwest Fiber LLC acquired Frontier Communications Corporation, operating the infrastructure as Frontier Communications Northwest, LLC (dba Ziplly Fiber). Given the acquisition, Frontier Communications Northwest, LLC (dba Ziplly Fiber) has been focusing on the transition; and

WHEREAS, given the acquisition and the transition process, franchise negotiations have been impacted and therefore, Franchise negotiations may continue beyond the November 4, 2021 expiration date of the current Franchise; and

WHEREAS, by providing a one-year extension of the Franchise granted by Ordinance No. 522, the City and Frontier Communications Northwest, LLC (dba Ziplly Fiber) will be able to complete negotiations that benefit the residents of the City of Shoreline; and

WHEREAS, the City Council finds that it is in the best interests of the health, safety, and welfare of the residents of the City of Shoreline to grant a one-year non-exclusive franchise to Frontier Communications Northwest, LLC (dba Ziplly Fiber) for a cable system within the City rights-of-way to allow for productive negotiations to occur;

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

Section 1. Ordinance No. 522, as amended by Ordinance No. 905, Amended. Section 1 of Ordinance No. 522, as amended by Ordinance No. 905, granting a non-exclusive franchise to Verizon Northwest, Inc. now transferred to Frontier Communications Northwest, LLC (dba Ziplly Fiber), is hereby amended to provide for a one (1) year extension of the franchise:

Section 1. Grant of Franchise. The second sentence of this section is amended to read:

Subject to the provisions in Ordinance No. 522, as amended by Ordinance No. 905, the term of the franchise shall be extended for a period of one (1) year, beginning at 12:01 a.m. Pacific Time on November 5, 2021 and terminating at 11:59 p.m. Pacific Time on November 4, 2022, and shall grant Frontier Communications Northwest, LLC (dba Ziplly Fiber) the right, privilege, and authority to construct, maintain, operate, and repair a cable system in, on, across, over, along, under, upon, through, and below the public rights-of-way to provide cable services in the City of Shoreline, all as provided in Exhibit A.

Exhibit A – Cable Franchise Agreement. Section 2.3. Term. This subsection is amended to read:

The amended and extended term of the Franchise granted hereunder shall be from 12:01 a.m. Pacific Time on November 5, 2021 to 11:59 p.m. Pacific Time on November 4, 2022.

Section 2. Terms and Conditions of Non-Exclusive Franchise Granted by Ordinance No. 522, as amended by Ordinance No. 905, Remain the Same. Except as specifically provided in this Ordinance, the terms and conditions of the non-exclusive franchise granted to Frontier Communications Northwest, LLC (dba Ziplly Fiber) by Ordinance No. 522, as amended by Ordinance No. 905, including Exhibit A Cable Franchise Agreement, continue in full force and effect.

Section 3. Directions to City Clerk. The City Clerk is hereby authorized and directed to forward certified copies of this Ordinance to Communications Northwest, LLC (dba Ziplly Fiber). No later than 11:59 p.m. PST, November 4, 2021, Frontier Communications Northwest, LLC (dba Ziplly Fiber) shall accept in writing the extension authorized by this Ordinance and the continuation of the non-exclusive franchise granted by Ordinance No. 522, as amended by Ordinance No. 905. If Frontier Communications Northwest, LLC (dba Ziplly Fiber) fails to provide written acceptance, this Ordinance shall become null and void and the franchise granted by Ordinance No. 522, as amended by Ordinance No. 905, shall expire.

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

Section 5. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional

or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.


Section 6. Publication and Effective Date. In accordance with state law, a summary of this Ordinance shall be published in the official newspaper. The cost of such publication shall be borne by Frontier Communications Northwest, LLC (dba Ziplly Fiber). If accepted by Frontier Communications Northwest, LLC (dba Ziplly Fiber) as provided in Section 3 above, this Ordinance shall take effect at 12:01 am Pacific Time on November 5, 2021. Otherwise, this Ordinance and the franchise granted by Ordinance No. 522, as amended by Ordinance No. 905, shall become null and void as of 11:59 pm Pacific Time on November 4, 2021.


PASSED BY THE CITY COUNCIL ON OCTOBER 4, 2021.


Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:


Jessica Simulcik-Smith
City Clerk


Julie Ainsworth-Taylor
Assistant City Attorney
On behalf of
Margaret King
City Attorney

Date of Publication: October 7, 2021
Effective Date: November 5, 2021
Section 3 Acceptance Date: 10/18, 2021



October 8, 2021

**SHORELINE
CITY COUNCIL**

Will Hall
Mayor

Keith Scully
Deputy Mayor

Susan Chang

Betsy Robertson

Doris McConnell

Keith A.
McGlashan

Chris Roberts

Zipty Fiber, LLC
135 Lake Street South
Suite 155
Kirkland, WA 98033
Attn: Jessica Epley

Dear Ms. Epley,

RE: City of Shoreline Franchise Agreement

Enclosed is a signed copy of Ordinance No. 938 passed by the Shoreline City Council on October 4, 2021. Ordinance No. 938 grants Frontier Communications Northwest, LLC (dba Zipty Fiber) to construct, maintain, operate, and repair a cable system in, on, across, over, along, under, upon, through, and below public rights-of-way of the City of Shoreline, Washington to provide cable services.

Section 3 of the Ordinance states: "The City Clerk is hereby authorized and directed to forward certified copies of this Ordinance to Communications Northwest, LLC (dba Zipty Fiber). No later than 11:59 p.m. PST, November 4, 2021, Frontier Communications Northwest, LLC (dba Zipty Fiber) shall accept in writing the extension authorized by this Ordinance and the continuation of the non-exclusive franchise granted by Ordinance No. 522, as amended by Ordinance No. 905. If Frontier Communications Northwest, LLC (dba Zipty Fiber) fails to provide written acceptance, this Ordinance shall become null and void and the franchise granted by Ordinance No. 522, as amended by Ordinance No. 905, shall expire." This letter serves as the stated Acceptance Agreement.

Please obtain the appropriate authorized signature at the bottom of this letter to accept the Franchise. If you have any questions about this process, I can be reached at (206) 801-2231 or jsmith@shorelinewa.gov.

Sincerely,

Jessica Simulcik Smith, City Clerk

Enclosure: Copy of Ordinance No. 938

Signature: _____

Printed Name: George Baker Thomson Jr.

Title: Associate General Counsel

Date Accepted: 10/18/2021