



Legislation Passed January 28, 2014

The Tacoma City Council, at its regular City Council meeting of January 28, 2014, adopted the following resolutions and/or ordinances. The summary of the contents of said resolutions and/or ordinances are shown below. To view the full text of the document, click on the bookmark at the left of the page.

Resolution No. 38827

A resolution approving the final plat of "Chambers Ridge" (formerly "Sunset Estates"), a twenty-five lot subdivision for single-family development located at 1418 South Sunset Drive.
(Novastar Development, Inc.; File No. PLT2013-40000207272).
[Philip Kao, Associate Planner; Peter Huffman, Director, Planning and Development Services]

Resolution No. 38828

A resolution authorizing the execution of an Interlocal Agreement with Pierce County to renew the Enhanced 9-1-1 Public Safety Answering Point Participation Agreement for 2014, in the amount of \$246,190; accepting and depositing said sum into the Fire Miscellaneous Special Revenue Fund, for Tacoma Fire Department expenses related to emergency communications.
[Faith Mueller, Deputy Chief; James Duggan, Chief, Fire Department]

Resolution No. 38829

A resolution authorizing the execution of an Interlocal Agreement with the Washington State Patrol to allow reimbursement of fire mobilization costs incurred pursuant to activation of the Washington State Fire Services Resource Mobilization Plan.
[Faith Mueller, Deputy Chief; James Duggan, Chief, Fire Department]

Resolution No. 38831

A resolution appointing individuals to the Citizen Review Panel.
[Doris Sorum, City Clerk; Elizabeth Pauli, City Attorney]

Resolution No. 38832

A resolution appointing and reappointing the following individuals to the Human Rights Commission: Vazaskia Caldwell, Fred Schuneman, and Christina Zinkgraf.
[Doris Sorum, City Clerk; Elizabeth Pauli, City Attorney]

Resolution No. 38833

A resolution awarding a contract to Rod McConkey Construction, LLC, on its bid of \$218,777.83, plus sales tax, plus a 20 percent contingency, for a cumulative total of \$262,533.40, budgeted from the 2010 LTGO Series D Fund, for a new public restroom and site improvements at the intersection of Ruston Way and McCarver Street, adjacent to Old Town Dock - Specification No. PW13-0412F.

[Jeffrey A. Jenkins, Assistant Public Works Director; Kurtis D. Kingsolver, P.E., Director, Public Works]

Resolution No. 38834

A resolution awarding a contract to Yes LSE, LLC, in the amount of \$405,000, sales tax not applicable, for a cumulative total of \$405,000, budgeted from the Tacoma Dome and Convention Center Funds, for temporary personnel services for the Tacoma Dome and the Greater Tacoma Convention and Trade Center, for an initial three-year period, plus the option to renew for one additional two-year period, for a projected contract total of \$675,000 -

Specification No. PF13-0687F.

[Jon Houg, Deputy Director; Kim Bedier, Director, Public Assembly Facilities]

Ordinance No. 28199

An ordinance amending the non-exclusive telecommunications franchise agreement granted to Zayo Group, LLC, by Ordinance No. 28124, dated January 29, 2013, to construct, operate, and repair a telecommunications system throughout the city; clarifying certain provisions, terms and conditions of the franchise, and making such grant apply to both underground and above-ground use of City right-of-way where applicable.

[Jeff Lueders, Cable Communications and Franchise Services Manager;
T.C. Broadnax, City Manager, City Manager's Office]



RESOLUTION NO. 38827

1 A RESOLUTION relating to the platting and subdivision of real property; approving
2 the final plat of CHAMBERS RIDGE (formerly "Sunset Estates"), located at
3 1418 South Sunset Drive.

4 WHEREAS all owners of that certain real property situate in Pierce County,
5 Washington, legally described as follows:

6 PARCEL A:

7 BEGINNING AT A POINT ON THE EAST LINE OF SECTION 4, TOWNSHIP
8 20 NORTH, RANGE 2 EAST OF THE W.M., 1,093.18 FEET SOUTH OF
9 THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID
10 SECTION 4;

11 THENCE WEST 366.43 FEET (**266.43 FEET**), MORE OR LESS, TO THE
12 SOUTHEASTERLY LINE OF LEWIS ROAD;

13 THENCE SOUTHWEST ON THE SOUTHEASTERLY LINE OF SAID ROAD
14 TO INTERSECT THE EAST LINE OF TITLOW ROAD; THENCE SOUTH ON
15 THE EAST LINE OF SAID ROAD TO A POINT 170 FEET NORTH OF THE
16 INTERSECTION OF TITLOW ROAD AND THE NORTH LINE OF SOUTH
17 16TH STREET;

18 THENCE EAST PARALLEL TO THE NORTH LINE OF SOUTH
19 16TH STREET, 300 FEET TO A POINT 30 FEET WEST OF THE SECTION
20 LINE;

21 THENCE NORTH 55 FEET;

22 THENCE EAST 30 FEET TO THE SECTION LINE;

23 THENCE NORTH TO THE POINT OF BEGINNING.

24 TOGETHER WITH THAT PORTION OF CRYSTAL SPRINGS ROAD,
25 LYING NORTH OF SOUTH 16TH STREET AS VACATED BY CITY OF
26 TACOMA ORDINANCE NO. 27592, RECORDED UNDER RECORDING
NO. 200901290627.

EXCEPT THEREFROM THAT PORTION CONVEYED TO CITY OF
TACOMA BY INSTRUMENT RECORDED UNDER AUDITOR'S FILE NO.
201305100566.



PARCEL B:

BEGINNING AT A POINT ON THE EAST LINE OF SECTION 4, TOWNSHIP 20 NORTH, RANGE 2 EAST OF THE W.M., 1,043.18 FEET SOUTH OF THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION.

THENCE CONTINUE SOUTH ON SAID EAST LINE, A DISTANCE OF 50 FEET;

THENCE WEST 266.43 FEET, MORE OR LESS, TO THE SOUTHEASTERLY LINE OF LEWIS ROAD;

THENCE NORTHERLY ON SAID SOUTHEASTERLY LINE 51.72 FEET TO A POINT WEST OF THE POINT OF BEGINNING;

THENCE EAST 253.20 FEET TO THE POINT OF BEGINNING.

PARCEL C:

PARCEL A, CITY OF TACOMA BOUNDARY LINE ADJUSTMENT MPD2012-40000190125, RECORDED ON DECEMBER 13, 2012, AS RECORDING NO. 201212135003, IN THE OFFICIAL RECORDS OF PIERCE COUNTY, WASHINGTON.

EXCEPT THEREFROM THOSE PORTIONS CONVEYED TO CITY OF TACOMA BY INSTRUMENTS RECORDED UNDER AUDITOR'S FILE NOS. 201305100566 AND 201306210057.

TAX PARCEL NOS.: 0220037079, 0220044301, 0220037078, 0220044300, and 0220044035.

have joined in a plat of the property to be known and designated as CHAMBERS RIDGE (formerly "Sunset Estates"), and

WHEREAS the preliminary plat of the residential subdivision known as CHAMBERS RIDGE was tentatively approved by the Land Use Administrator, subject to the conditions contained in the Land Use Administrator's Report and Decision, dated October 19, 2009, and the conditions have now been fully complied with by the owners of the property, and

WHEREAS the plat, evidenced by the official drawing thereof, has been approved by the Director of Public Works, the City Engineer, the Director of



Planning and Development Services, and the City Attorney, and the requirements
of Chapter 13.04 of the Tacoma Municipal Code have been fully complied with, and

WHEREAS the residential subdivision known as CHAMBERS RIDGE plat is
hereby submitted to the City Council for acceptance and approval; Now, Therefore,

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

Section 1. That the final plat of the residential subdivision to be known as
CHAMBERS RIDGE (formerly "Sunset Estates") is hereby accepted and approved.

Section 2. That the Mayor and the proper City officers are hereby authorized
to indicate upon the original tracing(s) of the plat the acceptance by the City Council
of the same as provided in Chapter 13.04 of the Tacoma Municipal Code.

Adopted _____

Mayor

Attest:

City Clerk

Location: 1418 South Sunset Drive
Applicant: Wayne Potter, Novastar Development, Inc.
File No.: PLT2013-40000207272

Approved as to form:

Legal description approved:

Deputy City Attorney

Chief Surveyor
Public Works Department



RESOLUTION NO. 38828

1 A RESOLUTION relating to emergency fire communications; authorizing the
2 execution of an interlocal Pierce County Enhanced 9-1-1 Public Safety
3 Answering Point Participation Agreement for 2014; and accepting the sum of
4 \$246,190 from Pierce County, for deposit into the Fire Miscellaneous Special
5 Revenue Fund, for Tacoma Fire Department expenses related to emergency
6 communications.

7 WHEREAS the State of Washington collects taxes on telephone services
8 and distributes those funds among the counties in the state for the operation and
9 support of countywide 9-1-1 systems, and

10 WHEREAS Pierce County, in turn, distributes its share of those funds to
11 various agencies within the county operating emergency call centers, and

12 WHEREAS the Tacoma Fire Department ("TFD") operates a Public Safety
13 Answering Point ("PSAP") communication center, and

14 WHEREAS, by adoption of Resolution No. 33739 on June 17, 1997, the City
15 entered into an interlocal Enhanced 9-1-1 Telephone System PSAP Participation
16 Agreement ("Agreement") with Pierce County for the purpose of sharing in 9-1-1 tax
17 revenues to support the TFD PSAP communication center, and

18 WHEREAS, since 2007, the Agreement has been extended each year by
19 City Council adoption, and

20 WHEREAS Pierce County now proposes an Agreement for 2014 to provide
21 for the receipt of \$246,190 in funding for TFD expenses related to emergency
22 communications, an approximate 3 percent increase over the amount received in
23 2013; Now, Therefore,

24 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:
25
26



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Section 1. That the proper officers of the City are hereby authorized to enter into an interlocal Pierce County Enhanced 9-1-1 Public Safety Answering Point Participation (PSAP) Agreement for 2014, said document to be substantially in the form of the proposed amendment on file in the office of the City Clerk.

Section 2. That the proper officers are hereby authorized to accept the sum of \$246,190 from Pierce County, for deposit into the Fire Miscellaneous Special Revenue Fund, for Tacoma Fire Department expenses related to emergency communications.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



RESOLUTION NO. 38829

1 A RESOLUTION relating to public safety; authorizing the execution of an
2 interlocal agreement with the Washington State Patrol for the purpose of
3 allowing reimbursement of fire mobilization costs incurred pursuant to
4 activation of the Washington State Fire Services Resource Mobilization
5 Plan.

6 WHEREAS the Washington State Fire Services Resource Mobilization
7 Plan ("Mobilization Plan") provides a statewide process to quickly notify,
8 assemble, and deploy fire service personnel and equipment to any jurisdiction in
9 Washington that has expended all local and mutual aid resources to manage and
10 mitigate an emergency incident, and

11 WHEREAS the Tacoma Fire Department ("TFD") has, on occasion,
12 provided resources and equipment to assist the state and/or other jurisdictions in
13 fighting fires and responding to other emergencies, and

14 WHEREAS such deployments occur rarely, usually when additional
15 resources for structural firefighting are needed, and

16 WHEREAS, in the past two decades, TFD resources were deployed to two
17 significant events; thus, TFD staff estimates that there is a 10 percent chance
18 each year that a deployment could occur, with an estimated average annual cost
19 risk of \$23,000, of which approximately 75 percent would be eligible for
20 reimbursement; Now, Therefore,

21
22 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

23 That the proper officers of the City of Tacoma are hereby authorized to
24 enter into an interlocal agreement with the Washington State Patrol for the
25 purpose of allowing for reimbursement of fire mobilization costs incurred pursuant
26



1 to activation of the Washington State Fire Services Resource Mobilization Plan,
2 said document to be substantially in the form of the proposed agreement on file in
3 the office of the City Clerk.
4

5 Adopted _____
6

7 _____
8 Mayor

9 Attest:
10

11 _____
12 City Clerk

13 Approved as to form:
14

15 _____
16 Deputy City Attorney
17
18
19
20
21
22
23
24
25
26



RESOLUTION NO. 38831

1 BY REQUEST OF DEPUTY MAYOR WOODARDS AND COUNCIL MEMBERS
2 CAMPBELL AND LONERGAN

3 A RESOLUTION relating to committees, boards, and commissions; appointing
4 individuals to the Citizen Review Panel.

5 WHEREAS vacancies exist on the Citizen Review Panel, and

6 WHEREAS, at its meeting of January 23, 2014, the Public Safety, Human
7 Services, and Education Committee interviewed applicants and recommended the
8 appointment of individuals to said panel, and

9 WHEREAS, pursuant to the City Charter Section 2.4 and the Rules,
10 Regulations, and Procedures of the City Council, the persons named on Exhibit "A"
11 have been nominated to serve on the Citizen Review Panel; Now, Therefore,
12

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

14 That those nominees to the Citizen Review Panel listed on Exhibit "A" are
15 hereby confirmed and appointed as members of such panel for such terms as are
16 set forth on Exhibit "A."
17

18 Adopted _____
19

20 _____
Mayor

21 Attest:
22

23 _____
City Clerk

24 Approved as to form:
25

26 _____
City Attorney



EXHIBIT "A"

CITIZEN REVIEW PANEL

Appointing **Sue Pivetta** to an unexpired term to expire December 31, 2014.

Appointing **Ryan Webster** to a three-year term beginning January 28, 2014, to expire December 31, 2016.

Appointing **William King** to a three-year term beginning January 28, 2014, to expire December 31, 2016.



RESOLUTION NO. 38832

1 BY REQUEST OF DEPUTY MAYOR WOODARDS AND COUNCIL MEMBERS
2 CAMPBELL AND LONERGAN

3 A RESOLUTION relating to committees, boards, and commissions; appointing and
4 reappointing individuals to the Human Rights Commission.

5 WHEREAS vacancies exist on the Human Rights Commission, and

6 WHEREAS, at its meeting of January 9, 2014, the Public Safety, Human
7 Services, and Education Committee recommended the appointment and
8 reappointment of individuals to said committee, and

9 WHEREAS, pursuant to the City Charter Section 2.4 and the Rules,
10 Regulations, and Procedures of the City Council, the persons named on Exhibit "A"
11 have been nominated to serve on the Human Rights Commission; Now, Therefore,
12

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

14 That those nominees to the Human Rights Commission, listed on Exhibit "A"
15 are hereby confirmed and appointed or reappointed as members of such
16 commission for such terms as are set forth on Exhibit "A."
17

18 Adopted _____

19 _____
Mayor

20 Attest:

21 _____
22 City Clerk

23 Approved as to form:

24 _____
25 City Attorney
26



EXHIBIT "A"

HUMAN RIGHTS COMMISSION

Reappointing **Fred Schuneman** to a three-year term beginning January 28, 2014, to expire December 31, 2016.

Appointing **Vazaskia Caldwell** to a three-year term beginning January 28, 2014, to expire December 31, 2016.

Appointing **Christina Zinkgraf** to a three-year term beginning January 28, 2014, to expire December 31, 2016.



RESOLUTION NO. 38833

1 A RESOLUTION related to the purchase of materials, supplies or equipment, and
2 the furnishing of services; authorizing the execution of a contract with Rod
3 McConkey Construction, LLC, on its bid of \$218,777.83, plus applicable
4 sales tax, plus a 20 percent contingency, for a cumulative total of
5 \$262,533.40, budgeted from the 2010 LTGO Series D Fund, for a new
6 public restroom and site improvements at the intersection of Ruston Way
7 and McCarver Street, adjacent to Old Town Dock - Specification
8 No. PW13-0412F.

9 WHEREAS the City has complied with all applicable laws and processes
10 governing the acquisition of those supplies, and/or the procurement of those
11 services, inclusive of public works, as is shown by the attached Exhibit "A,"
12 incorporated herein as though fully set forth, and

13 WHEREAS the Board of Contracts and Awards has concurred with the
14 recommendation for award as set forth in Exhibit "A"; Now, Therefore,

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

16 Section 1. That the Council of the City of Tacoma concurs with the Board
17 of Contracts and Awards to adopt the recommendation for award as set forth in
18 the attached Exhibit "A."

19 Section 2. That the proper officers of the City are hereby authorized to
20 enter into a contract with Rod McConkey Construction, LLC, on its bid of
21 \$218,777.83, plus applicable sales tax, plus a 20 percent contingency, for a
22 cumulative total of \$262,533.40, budgeted from the 2010 LTGO Series D Fund, for
23 a new public restroom and site improvements at the intersection of Ruston Way
24
25
26



1 and McCarver Street, adjacent to Old Town Dock - Specification No. PW13-0412F,
2 consistent with Exhibit "A."

3
4 Adopted _____

5

6 _____
Mayor

7 Attest:

8

9 _____
City Clerk

10 Approved as to form:

11

12 _____
13 City Attorney

14

15

16

17

18

19

20

21

22

23

24

25

26



EXHIBIT "A"

City of Tacoma Environmental Services Department

DATE: January 10, 2014
TO: Board of Contracts and Awards
SUBJECT: Old Town Dock, Public Restroom
Budgeted from 2010 LTGO Series D, Fund 3220-10D
Request for Bids Specification No. PW13-0412F

RECOMMENDATION: The Public Works, Facilities Management Division recommends that a contract be awarded to low bidder **Rod McConkey Construction, LLC, Olympia, WA**, for the Old Town Dock, Public Restroom Project. The contract amount reflects a base award of \$218,777.83, plus applicable sales tax, plus a 20% contingency, for a cumulative amount of \$262,533.40, plus applicable sales tax.

EXPLANATION: This contract will provide for a new public restroom and site improvements at the intersection of Ruston Way and McCarver Street, adjacent to Old Town Dock. The improvements include two new public restrooms, sidewalk improvements, crosswalk improvements across Ruston Way, rain garden, landscaping and irrigation.

COMPETITIVE BIDDING: Request for Bids Specification No. PW13-0412F was opened December 17, 2013. 10 submittals were received. The Small Business Enterprise (SBE) participation level proposed by the bidder(s) are reflected as a credit (maximum applies) against the submitted base bid to arrive at an "evaluated bid" for ranking purposes. Rod McConkey Construction, LLC submitted a bid that resulted in the lowest evaluated submittal after consideration of SBE participation goals. The table below reflects the amount of the base award.

<u>Respondent</u>	<u>Location</u> (city and state)	<u>Submittal</u> <u>Amount</u>	<u>Evaluated</u> <u>Submittal</u>
		Plus sales tax	
Rod McConkey Construction, LLC	Olympia, WA	\$ 218,777.83	\$ 218,777.83
Durels Construction & Management, LLC	Tumwater, WA	\$ 231,355.00	\$ 231,355.00
Berschauer Construction, Inc.	Olympia, WA	\$ 237,609.00	\$ 237,609.00
Lincoln Construction, Inc.	Spanaway, WA	\$ 242,905.00	\$ 242,905.00
Pease Construction, Inc.	Lakewood, WA	\$ 249,750.00	\$ 238,182.25
Pease & Sons, Inc.	Tacoma, WA	\$ 254,548.00	\$ 242,980.25
Nordland Construction NW	Nordland, WA	\$ 262,000.00	\$ 262,000.00
Jody Miller Construction, Inc.	Tacoma, WA	\$ 281,000.00	\$ 274,149.23
Tye Miller, Inc. dba T. Miller Construction	Auburn, WA	\$ 303,700.00	\$ 292,132.25
Westmark Construction, Inc.	Tacoma, WA	\$ 336,691.00	\$ 330,973.36
	Pre-bid Estimate	\$ 260,000.00	

The recommended award is approximately 16% below the pre-bid estimate.

CONTRACT HISTORY: New contract.

FUNDING: Funds are budgeted in the 2010 LTGO Series D, Fund 3220-10D. Funding beyond the current biennium is subject to future availability of funds.

SUSTAINABILITY: Several sustainability factors were incorporated into this project. The project will utilize a waste management plan to separate construction waste for recycling. The project

will also provide for new pedestrian pathways connecting the recreation path to the new ADA compliant restroom and ADA compliant crosswalk at Ruston Way. In addition, the project will enhance the site with native vegetation plantings and a rain garden.

SBE/LEAP COMPLIANCE: The recommended contractor is in compliance with the Small Business Enterprise (SBE) Regulation requirements, per the memorandum dated January 7, 2014. The SBE goal for this project is 12 %. The SBE participation level of the recommended contractor is 0%. Rod McConkey Construction, LLC submitted the lowest evaluated bid per the SBE Regulation requirements. There is no Local Employment and Apprenticeship Training Program (LEAP) goal for the project.

PROJECT ENGINEER/COORDINATOR: Jeffrey A. Jenkins, Assistant Public Works Director, 253-591-5508.

A handwritten signature in blue ink, appearing to read 'Kurtis D. Kingsolver', is written over a horizontal line.

Kurtis D. Kingsolver, P.E.
Public Works Director/City Engineer

Attachment

cc: Chuck Blankenship, Senior Buyer, Finance/Purchasing
Charles Wilson, SEB Coordinator
Peter Guzman, LEAP Coordinator
Jeffrey Jenkins, Assistant Public Works Director



RESOLUTION NO. 38834

1 A RESOLUTION related to the purchase of materials, supplies or equipment, and
2 the furnishing of services; authorizing the execution of a contract with Yes
3 LSE, LLC, in the amount of \$405,000, sales tax not applicable, plus the
4 option for one additional two-year renewal period, for a cumulative total of
5 \$675,000, budgeted from the Tacoma Dome and Convention Center Funds,
6 for temporary personnel services for the Tacoma Dome and the Greater
7 Tacoma Convention and Trade Center - Specification No. PF13-0687F.

8 WHEREAS the City has complied with all applicable laws and processes
9 governing the acquisition of those supplies, and/or the procurement of those
10 services, inclusive of public works, as is shown by the attached Exhibit "A,"
11 incorporated herein as though fully set forth, and

12 WHEREAS the Board of Contracts and Awards has concurred with the
13 recommendation for award as set forth in Exhibit "A"; Now, Therefore,

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

15 Section 1. That the Council of the City of Tacoma concurs with the Board of
16 Contracts and Awards to adopt the recommendation for award as set forth in the
17 attached Exhibit "A."

18 Section 2. That the proper officers of the City are hereby authorized to
19 enter into a contract with Yes LSE, LLC, in the amount of \$405,000, sales tax not
20 applicable, plus the option for one additional two-year renewal period, for a
21 cumulative total of \$675,000, budgeted from the Tacoma Dome and Convention
22 Center Funds, for temporary personnel services for the Tacoma Dome and the
23
24
25
26



1 Greater Tacoma Convention and Trade Center - Specification No. PF13-0687F,
2 consistent with Exhibit "A."

3 Adopted _____
4

5 _____
6 Mayor

7 Attest:
8

9 _____
10 City Clerk

11 Approved as to form:
12

13 _____
14 City Attorney
15
16
17
18
19
20
21
22
23
24
25
26



EXHIBIT "A"

City of Tacoma Public Assembly Facilities

DATE: January 8, 2014
TO: Board of Contracts and Awards
SUBJECT: Temporary Personnel Services for the Tacoma Dome and the Greater Tacoma Convention & Trade Center
Budgeted from 4180 - Tacoma Dome and 4165-CCOP - Convention Center
Request for Proposals Specification No. PF13-0687F

RECOMMENDATION: Public Assembly Facilities recommends a contract be awarded to **Yes LSE, LLC, Winter Park, FL**, for providing temporary personnel services for the Tacoma Dome and the Greater Tacoma Convention & Trade Center. The recommendation is for an initial three-year contract term in the estimated amount of \$405,000.00, sales tax not applicable, plus the option for one additional two-year renewal period, for a cumulative total of \$675,000.00 sales tax not applicable. The specification documents contain market-based provisions for price escalations that will affect overall contract value.

EXPLANATION: To provide temporary personnel services for the Public Assembly Facilities Department as needed. Primary users are the Tacoma Dome and the Greater Tacoma Convention & Trade Center. These services will not impact any Union contracted positions with the City.

COMPETITIVE SOLICITATION: Request for Proposals Specification No. PF13-0687F was opened December 10, 2013. Eight companies were invited to bid in addition to normal advertising of the project. Four submittals were received.

<u>Respondent</u>	<u>Location (city and state)</u>	<u>Score</u>
Yes LSE , LLC	Winter Park, FL	253
Command Center, Inc.	Tacoma, WA	207
Mobius Industries USA, Inc.	Kirkland, WA	207
West Sound Workforce, Inc.	Gig Harbor, WA	174

CONTRACT HISTORY: New contract.

FUNDING: Funds for this contract are available in the 4180 - Tacoma Dome and 4165-CCOP - Convention Center. Funding beyond the current biennium is subject to future availability of funds.

SBE/LEAP COMPLIANCE: Not applicable.

PROJECT ENGINEER/COORDINATOR: Jon Houg, PAF, 253-593-7626.



Kim Bedier
Director, PAF

(KB:jdj)

cc: Marie Holm, Senior Buyer, Finance/Purchasing
SBE Coordinator
LEAP Coordinator
Jon Houg, Deputy Director, PAF



ORDINANCE NO. 28199

1 AN ORDINANCE amending that certain non-exclusive franchise granted to Zayo
2 Group, LLC, a Delaware limited liability company, by City Ordinance
3 No. 28124, dated January 29, 2013, to construct, operate, and repair a
4 telecommunications system throughout the City of Tacoma; clarifying
5 certain provisions, terms and conditions of the grant of franchise;
6 specifically making such grant apply to both underground and above
7 ground use of City right-of-way where applicable.

8 WHEREAS Zayo Group, LLC, a Delaware limited liability company ("Zayo"
9 or "Franchisee") is a telecommunications company currently involved in the
10 business of operating a telecommunications network utilizing fiber optic
11 technology, and

12 WHEREAS, as part of such network, Zayo currently operates a system of
13 fiber optic cable, a portion of which passes through the City as a result of Zayo's
14 predecessors in interest, Metromedia Fiber Network Services, Inc. and AboveNet,
15 Inc. (Zayo acquired AboveNet, Inc. through its wholly owned subsidiary Viola Sub,
16 Inc.; AboveNet had previously acquired Metromedia Fiber as of January 2006),
17 Metromedia Fiber Network Services, Inc. having originally been granted a non-
18 exclusive franchise for the use of City right-of-way on May 23, 2000, pursuant to
19 City Ordinance No. 26623 (the "Prior Franchise"), and

20 WHEREAS, on January 29, 2013, Zayo was granted a new franchise by
21 City Ordinance No. 28124 (the "Original Franchise") after expiration of the Prior
22 Franchise, but Zayo neglected therein to secure the ability to locate Facilities in
23 City right-of-way both under and above ground, and
24
25
26



WHEREAS Zayo now desires to amend the Franchise to clarify its rights,
and the City Council is willing to make the requested clarifications; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. DEFINITIONS. For the purposes of this Franchise amendment,
the capitalized terms, phrases, words, and their derivations defined in the Original
Franchise shall have the meaning given therein in their usage here unless
otherwise expressly indicated herein.

Section 2. Section 1.7 of the Franchise is hereby amended to read as
follows:

1.7 "Facilities" or "Installations" are and refer to and include, but are
not limited to, plant, systems, improvements, and equipment owned,
leased, or otherwise used by Franchisee such as poles, fiber, wires,
fixtures, equipment, underground circuits, and conduit in public rights-
of-way and other property necessary or convenient for the
transmission and distribution of communications service where such
facilities are located. This term, when used without a modifier, shall
be considered to encompass both Overhead Facilities and
Underground Facilities.

Section 3. Section 1.11 of the Franchise is hereby deleted and replaced
with the following:

"Gross Receipts," for purposes of this Franchise, and as referenced in
Article VIII of the City Charter or "Gross Revenue" as referenced in Title
16 of the Tacoma Municipal Code means any and all revenue received



1 directly or indirectly by Franchisee, that is derived from the operation of
2 its System. Gross Receipts/Revenues shall include, by way of example
3 and not limitation, revenues from its Telecommunications Service, all
4 fees, late fees, installation and connection fees, upgrade and
5 downgrade fees, and rental fees. The term Gross Receipts/Revenues
6 shall not include any taxes on Services furnished by Franchisee
7 imposed by any municipality, state, or other governmental unit and
8 collected by Franchisee for such governmental unit, nor shall the term
9 include any wholesale services provided by Franchisee upon which
10 fees or taxes have already been levied within the City of Tacoma.

11
12 Section 4. Section 2.1 of the Franchise is hereby amended to read as
13 follows:

14 2.1 Grant of Franchise. The City hereby grants to Franchisee a
15 non-exclusive Franchise which, once it becomes effective, shall
16 authorize Franchisee to use the City's Public Rights-of-Way within
17 the Franchise Area to construct, repair, and operate an ~~underground~~
18 fiber optic Telecommunication System to provide Telecommunication
19 Service, and to continue using the City's Public Rights-of-Way as
20 hereby authorized ~~under the Prior Franchise~~.

21
22
23 Section 5. Section 3.1 of the Franchise is hereby amended to read as
24 follows:

25 3.1 Use of Public Rights-of-Way. Franchisee may, subject to
26 the terms of this Franchise, Title 16B, the City's Right-of-Way



1 Restoration Policy, and other applicable laws, construct, operate,
2 and maintain an ~~underground~~ fiber optic Telecommunications
3 System in Public Rights-of-Way within the Franchise Area to
4 provide Telecommunications Services. Without limiting the
5 foregoing, Franchisee expressly agrees that it will construct,
6 operate, and maintain its System in compliance with the
7 requirements of Title 16B, including those governing the
8 placement of its Telecommunications System, and with other
9 applicable City codes; and will obtain and maintain all bonds and
10 billable work orders required by the same.
11

12 Section 6. Subsection 3.2 L. of the Franchise is hereby amended to read as
13 follows:

14 L. Franchisee shall not remove any Overhead or
15 ~~u~~Underground Facilities except as hereinafter provided.

16
17 (1) Franchisee shall not remove any Overhead
18 or uUnderground Facilities which require trenching or other opening of
19 the Rights-of-Way along the extension of the Facilities to be removed
20 without the express permission of the City. Franchisee must request
21 permission from the City to remove the Facilities at least 30 days in
22 advance of the date Franchisee proposes to begin removal.
23

24 (2) Franchisee shall remove such Overhead or
25 ~~u~~Underground Facilities as the City orders it to remove; provided, that
26 the City may not order removal where such removal is primarily to give



economic benefit or advantage to a competing provider of

Telecommunications Service.

(3) Where trenching or other opening of the Rights-of-Way along the extension of Facilities to be removed is required, Franchisee must post bonds as the City may require to ensure that the property is promptly removed with minimum disruption. Franchisee must restore the affected property in conformance with the City's Right-of-Way Restoration Policy; and Franchisee must compensate those whose property it damages for the damage.

(4) Subject to the City's rights to purchase the Telecommunications System, Franchisee may voluntarily remove any Overhead or ~~u~~Underground Facilities from the streets which have been installed in such a manner that they can be removed without trenching or other opening of the Rights-of-Way.

Section 7. Subsection 5.2 A. of the Franchise at further subsection A. is hereby amended to read as follows:

A. A summary of the previous year's activities for the Franchise Area, including, but not limited to, the total number of Customers, miles of Overhead and ~~u~~Underground Facilities, any services added or dropped, and any technological changes occurring in the system;



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Section 8. Except as expressly modified in this amendment, the Original Franchise remains in full force and effect. Nothing herein shall be construed as extending the Franchise Term.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



**ACCEPTANCE OF CITY FRANCHISE
AMENDMENT**

Ordinance No. _____, effective _____, 201____,
amending the Franchise previously granted by City Ordinance No. 28124.

I, _____, am the _____ of
Zayo Group, LLC, and am the authorized representative to accept the
above-referenced City franchise amendment ordinance on behalf of Zayo Group,
LLC.

I certify that this franchise amendment and all terms and conditions thereof
are accepted by Zayo Group, LLC without qualification or reservation.

DATED this _____ day of _____, 201____.

By: _____

Its: _____

Witness: _____