

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, GRANTING A NON-EXCLUSIVE MASTER PERMIT TO ZIPLY FIBER PACIFIC LLC, DBA ZIPLY FIBER, LEGALLY AUTHORIZED TO CONDUCT BUSINESS IN THE STATE OF WASHINGTON, FOR THE PURPOSE OF CONSTRUCTING, OPERATING, AND MAINTAINING TELECOMMUNICATIONS TRANSMISSION LINES IN CERTAIN PUBLIC RIGHTS-OF-WAY IN THE CITY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, Ziplly Fiber Pacific, LLC, ("ZIPLY FIBER") is a competitive telecommunications company providing communications and telecommunications services; and

WHEREAS, ZIPLY FIBER's route through the City of Olympia requires the use of certain portions of rights-of-way belonging to the City of Olympia ("City") for the installation, operation, and maintenance of a telecommunications system; and

WHEREAS, ZIPLY FIBER has applied to the City for a telecommunications master use permit pursuant to Olympia Municipal Code ("OMC") Chapter 11.06. Ziplly Fiber Pacific, LLC is a wholly owned subsidiary of Northwest Fiber, LLC and affiliate of Wholesail Networks, LLC. Wholesail Networks, LLC provides intermarket transport service to Ziplly Fiber Pacific and possesses a Master Permit Agreement with the City; and

WHEREAS, the City Council held a public hearing on March 5, 2024, and determined that ZIPLY FIBER has satisfied the requirements set forth in OMC 11.06.020. In particular, the City Council was presented with information confirming and demonstrating the following: That ZIPLY FIBER has submitted licenses, certificates, and authorizations from the Federal Communications Commission, the Washington Utilities and Transportation Commission, and any other federal or state agency with jurisdiction over the activities proposed by ZIPLY FIBER That the City's rights-of-way will accommodate utilities and facilities if the Master Permit is granted. That ZIPLY FIBER confirms that there are currently no additional facilities planned and there is no anticipated damage or disruption to the City's rights-of-way. That construction of additional facilities will comply with the City's Engineering Design and Development Standards ("EDDS"). That there will be minimal effect, if any, on public health, safety, and welfare if the Master Permit requested is granted. That the proposed routes of ZIPLY FIBER's Facilities is appropriate; alternate routes are not needed. And that ZIPLY FIBER has agreed to comply with all federal, state, and local telecommunications laws, regulations, and policies; and

WHEREAS, the Revised Code of Washington (RCW) authorizes the City to grant and regulate nonexclusive Master Permits, for the use of public streets, rights-of-way and other public property, for transmission of communications; and

WHEREAS, the insurance provisions are updated in this Master Permit and supersede the insurance provisions set forth in Olympia Municipal Code 11.10.220; and

WHEREAS, this Master Permit contains the following:

- Section 1. Non-exclusive Master Permit Granted
- Section 2. Authority
- Section 3. Master Permit Term
- Section 4. Acceptance of Terms and Conditions
- Section 5. Construction Provisions and Standards

- A. Permit Required
 - B. Coordination
 - C. Construction Standards
 - D. Underground Installation Required
 - E. Relocation.
 - F. Removal or Abandonment
 - G. Bond
 - H. "One-Call" Location & Liability
 - I. As-Built Plans Required
 - J. Recovery of Costs
 - K. Vacation
- Section 6. Master Permit Compliance.
- A. Master Permit Violations
 - B. Emergency Actions.
 - C. Other Remedies
 - D. Removal of System
- Section 7. Insurance
- Section 8. Other Permits & Approvals
- Section 9. Transfer of Ownership.
- Section 10. Administrative Fees.
- Section 11. Notices.
- Section 12. Indemnification.
- Section 13. Severability
- Section 14. Reservation of Rights
- Section 15. Police Powers
- Section 16. Future Rules, Regulations, and Specifications
- Section 17. Effective Date
- Section 18. Law and Venue
- Section 19. Ratification

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Non-exclusive Master Permit Granted.

A. The City hereby grants to ZIPLY FIBER, subject to the conditions prescribed in this ordinance ("Master Permit"), the rights and authority to construct, replace, repair, monitor, maintain, use, and operate the equipment and facilities necessary for an underground telecommunications transmission system, within the City-owned rights-of-way generally described in Exhibit A, and referred to in this Master Permit as the "Master Permit area."

B. Such use may not be deemed to be exclusive to ZIPLY FIBER, and the permitting thereof in no way prohibits or limits the City's ability to grant other master permits or rights along, over, or under the areas to which this Master Permit has been granted to ZIPLY FIBER; provided, that such other uses do not unreasonably interfere with ZIPLY FIBER's exercise of Master Permit rights granted herein, as determined by the City. This Master Permit in no way interferes with existing utilities or in any way limits, prohibits, nor prevents the City from using the Master Permit area, and does not affect the City's jurisdiction over that area.

Section 2. Authority. The City Manager or the City Manager’s designee is hereby granted the authority to administer and enforce the terms and provisions of this Master Permit Agreement, and may develop such rules, policies, and procedures as he or she deems necessary to carry out this Master Permit.

Section 3. Master Permit Term. The Master Permit is effective for a period of five years from the effective date of this Master Permit. The effectiveness of this Master Permit is contingent upon ZIPLY FIBER’s delivery of a written acceptance to the City pursuant to Section 4 of this Master Permit. If ZIPLY FIBER requests a Master Permit renewal prior to the expiration date, the City may, at the City’s sole discretion, extend the term of this Master Permit beyond the expiration date to allow processing of renewal. If the City elects to extend the term of this Master Permit, written notice of the extension the City shall provide written notice to ZIPLY FIBER prior to the Master Permit expiration date.

Section 4. Acceptance of Terms and Conditions. As required by OMC 11.10.020, ZIPLY FIBER shall, within 30 days of the effective date of this Master Permit or within such other time period as is mutually agreed by the parties, deliver to the City Manager for filing an unconditional acceptance of this Master Permit in the form attached to this Master Permit as Exhibit B. ZIPLY FIBER’s failure to deliver the acceptance within this time period voids and nullifies this Master Permit and terminates any and all rights granted under this Master Permit.

Section 5. Construction Provisions and Standards. ZIPLY FIBER shall abide by the following construction provisions and standards, and ZIPLY FIBER’s failure to abide by any of the following construction provisions or standards constitutes non-compliance with the terms and conditions of this Master Permit and may result in imposition of some or all the remedies specified in Section 6.

A. **Permit Required.** Neither ZIPLY FIBER, nor any person or entity working on ZIPLY FIBER’s behalf or at ZIPLY FIBER’s direction, may perform any construction, installation, maintenance, repair, or restoration activities (except for emergency repairs) in the Master Permit Area without first obtaining appropriate permits from the City’s Community Planning and Development Department (“CP&D”). In case of an emergency, ZIPLY FIBER shall within 24 hours of the emergency obtain a permit from CP&D.

B. **Coordination.** All construction, installation, maintenance, repair, or restoration activities are subject to City inspection and approval, as provided under the OMC and EDDS. ZIPLY FIBER shall arrange and allow for such inspection. ZIPLY FIBER shall coordinate all construction, installation, maintenance, repair, and restoration activities and inspections with CP&D to ensure consistency with City infrastructure, future Capital Improvement Projects, all developer improvements, and pertinent codes and ordinances.

C. **Construction Standards.** ZIPLY FIBER, and any person or entity working on ZIPLY FIBER’s behalf or at ZIPLY FIBER’s direction, shall perform construction, installation, maintenance, repair, and restoration activities within the Master Permit Area so as to produce the least amount of interference with the free passage of pedestrian, bicycle, and vehicular traffic. ZIPLY FIBER and any person or entity working on ZIPLY FIBER’s behalf or at ZIPLY FIBER’s direction, shall perform all construction, installation, maintenance, and restoration activities in conformance with the EDDS and with Title 11 of the OMC.

D. **Underground Installation Required.** ZIPLY FIBER, and any person or entity working on ZIPLY FIBER’s behalf or at ZIPLY FIBER’s direction, shall install any new Facilities underground unless otherwise exempted from this requirement, in writing, by the City Manager, the City Manager’s designee.

E. **Relocation.**

1. ZIPLY FIBER shall, at its own expense, temporarily or permanently remove, relocate, place underground, change, or alter the position of any facilities or structures within the right-of-way whenever the City has determined that such removal, relocation, undergrounding, change, or alteration is reasonably necessary for the construction, repair, maintenance, installation, public safety, or operation of any City or other public improvement in or upon the rights-of-way. ZIPLY FIBER may seek reimbursement for relocation expenses from the City as provided for in City code.

2. ZIPLY FIBER may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation. Such alternatives may include the use and operation of temporary transmitting facilities in adjacent rights of way. The City shall evaluate such alternatives and advise ZIPLY FIBER in writing if one or more of the alternatives are suitable to accommodate the work, which would otherwise necessitate relocation of the facilities. If requested by the City, ZIPLY FIBER shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by ZIPLY FIBER full and fair consideration. In the event the City ultimately determines that there is no other reasonable alternative, ZIPLY FIBER shall relocate its facilities as otherwise provided in this section.

F. **Removal or Abandonment.** Upon the removal from service of any of ZIPLY FIBER's system or other associated structures, facilities, or amenities, ZIPLY FIBER shall comply with all applicable standards and requirements prescribed by City code and the EDDS for the removal or abandonment of said structures, facilities, and amenities. No facility constructed or owned by ZIPLY FIBER may be abandoned without the express written consent of the City.

G. **Bond.** Before undertaking any of the work, installation, improvements, construction, repair, relocation, or maintenance authorized by this Master Permit, ZIPLY FIBER shall upon the request of the City, furnish a bond executed by ZIPLY FIBER and a corporate surety authorized to operate a surety business in the State of Washington, in such sum as may be set and approved by the City Attorney or designee as sufficient to ensure performance of ZIPLY FIBER's obligations under this Master Permit. At ZIPLY FIBER's sole option, ZIPLY FIBER may provide alternate security in the form of an assignment of funds or a letter of credit, in the same amount as the bond. All forms of bond or alternate security must be in the form reasonably acceptable to the City Attorney. The bond must be conditioned so that ZIPLY FIBER shall observe all the covenants, terms, and conditions and shall faithfully perform all the obligations of this Master Permit, and to repair or replace any defective work or materials discovered in the City's roads, streets, or property. ZIPLY FIBER may not encumber a bond required by this section for any other purpose.

H. **"One-Call" Location & Liability.** ZIPLY FIBER shall subscribe to and maintain membership in the regional "One-Call" utility location service and shall promptly locate all its lines upon request. The City is not liable for any damages to ZIPLY FIBER's system components or for interruptions in service to ZIPLY FIBER customers that are a direct result of work performed for any City project for which ZIPLY FIBER has failed to properly locate its lines and facilities within the prescribed time limits and guidelines established by One-Call. The City is also not liable for any damages to the ZIPLY FIBER system components or for interruptions in service to ZIPLY FIBER customers resulting from work performed under a permit issued by the City.

I. **As-Built Plans Required.** ZIPLY FIBER shall maintain accurate engineering plans and details of all installations within the City limits and shall provide such information in the form required by the EDDS prior to close-out of any permits issued by the City and any work undertaken by ZIPLY FIBER pursuant to this Master Permit. The City shall determine the acceptability of any as-built submittals provided under this section.

J. **Recovery of Costs.** ZIPLY FIBER is subject to all permit fees associated with activities undertaken through the authority granted in this Master Permit or under other ordinances of the City. When the City

incurs costs and expenses for review or inspection of activities undertaken through the authority granted in this Master Permit or any ordinances relating to the subject for which permit fees have not been established, ZIPLY FIBER shall pay such reasonable costs and expenses directly to the City.

K. **Vacation.** If, at any time, the City vacates any City road, right-of-way, or other City property that is subject to rights granted by this Master Permit and said vacation is for the purpose of acquiring the fee or other property interest in said road, right-of-way, or other City property for the use of the City, in either its proprietary or governmental capacity, then the City may, at its option and by giving 30 days written notice to ZIPLY FIBER, terminate this Master Permit with respect to such City road, right-of-way, or other City property so vacated, and the City is not liable for any damages or loss to ZIPLY FIBER by reason of such termination other than those provided for in RCW Chapter 35.99.

Section 6. Master Permit Compliance.

A. **Master Permit Violations.** If ZIPLY FIBER fails to fully comply with any of the provisions of this Master Permit, the City may provide written notice to ZIPLY FIBER, which describes the violation(s) of the Master Permit and requests remedial action within 30 days of receipt of the violation notice. If ZIPLY FIBER has not remedied the violation(s) identified in the violation notice at the end of the 30-day period following receipt of the violation notification, the City may declare an immediate termination of this Master Permit, provided that remedying the violation(s) was reasonably possible within that 30-day period. If the violation(s) identified in the violation notice could not possibly be remedied within the 30-day period, the City may declare an immediate termination at the end of the period in which the violation(s) could possibly have been remedied.

B. Emergency Actions.

1. If any of ZIPLY FIBER's actions, or any failure by ZIPLY FIBER to act to correct a situation caused by ZIPLY FIBER, is deemed by the City to create a threat to life or property, the City may order ZIPLY FIBER to immediately correct said threat or, at the City's discretion, the City may undertake measures to correct said threat itself; provided that, when possible, the City shall notify ZIPLY FIBER and give ZIPLY FIBER an opportunity to correct said threat before undertaking such corrective measures. ZIPLY FIBER is liable for all costs, expenses, and damages attributed to the correction of any such emergency situation as undertaken by the City to the extent that such situation was caused by ZIPLY FIBER and ZIPLY FIBER is further liable for all costs, expenses, and damages resulting to the City from such situation. ZIPLY FIBER shall reimburse the City for such costs within 30 days of written notice of the completion of such action or determination of damages by the City. The failure by ZIPLY FIBER to take appropriate action to correct a situation caused by ZIPLY FIBER and identified by the City as a threat to public or private safety or property is a violation of Master Permit terms.

2. If during construction, installation, maintenance, repair, or restoration of any of ZIPLY FIBER's Facilities any damage occurs to an underground facility, and the damage results in the release of natural gas or other hazardous substance or potentially endangers life, health, or property, ZIPLY FIBER, or any person or entity working on ZIPLY FIBER's behalf or at ZIPLY FIBER's direction shall immediately call 911 or other local emergency response number.

C. **Other Remedies.** Nothing contained in this Master Permit limits the City's available remedies in the event of ZIPLY FIBER's failure to comply with the provisions of this Master Permit, including the City's right to a lawsuit for specific performance, or damages, or both.

D. **Removal of System.** In the event this Master Permit is terminated as a result of violations of the terms of this Master Permit, ZIPLY FIBER shall, at its sole expense, promptly remove all system components and facilities, provided that the City, at its sole option, may allow ZIPLY FIBER to abandon its facilities in place.

Section 7. Insurance.

A. ZIPLY FIBER shall maintain liability insurance written on an occurrence form during the full term of this Master Permit for bodily injuries and property damages. The policy must contain coverage in the amounts and conditions set forth in this subsection D of this Section.

B. Such insurance must specifically name, as additional insured, the City, its officers (including elected and appointed officials), employees, and other agents (including its representatives, consultants, engineers, and volunteers); must apply as primary insurance; must stipulate that no insurance affected by the City will be called on to contribute to a loss covered thereunder; and must further provide that the policy may not be modified or canceled during the life of the permit or Master Permit without giving advanced written notice to the City. Notice must be by certified mail to the City Manager, return receipt requested.

C. If the City determines that circumstances warrant an increase in insurance coverage and liability limits to adequately cover the risks of the City, the City may require ZIPLY FIBER to acquire additional insurance. The City shall provide written notice to ZIPLY FIBER should the City exercise its right to require additional insurance.

D. ZIPLY FIBER shall grant, secure, and maintain the following liability insurance policies insuring both ZIPLY FIBER and the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as additional insured parties against claims for injuries to persons or damages to property which may arise from or in connection with the exercise of the rights granted to ZIPLY FIBER:

1. Commercial general liability insurance, written on an occurrence basis and on form to include premises, products, completed operations, explosions, collapse, and underground hazards with limits not less than \$5,000,000 per occurrence covering bodily injury or death and property damage and may be placed with a combination of primary and excess liability policies;
2. Automobile liability for owned, non-owned, and hired vehicles with a limit of \$3,000,000.00 for each accident covering bodily injury or death and property damage and may be placed with a combination of primary and excess liability policies;
3. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.00;
4. ZIPLY FIBER shall maintain the liability insurance policies required by this Section throughout the term of this Master Permit and such other period of time during which ZIPLY FIBER is operating without an authorization or permit, or is engaged in the removal of its telecommunications facilities. ZIPLY FIBER shall provide an insurance certificate, together with an endorsement naming the City, and its elected and appointed officers, officials, agents, employees, representatives, engineers, consultants, and volunteers as additional insureds, to the City prior to the commencement of any work or installation of any facilities pursuant to this Master Permit. ZIPLY FIBER shall notify the City of any deductibles or self-insured retentions, and any deductible or self-insured retention is subject to approval by the City. ZIPLY FIBER shall pay and is solely responsible for any deductibles and self-insured retentions. The liability insurance policies required by this Section must contain a clause

stating that coverage applies separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. ZIPLY FIBER's insurance must be primary insurance as respects the City, its officers, officials, employees, agents, consultants, and volunteers. Any insurance maintained by the City, its officers, officials, employees, consultants, agents, and volunteers is in excess of ZIPLY FIBER's insurance and does not contribute with it; and

5. In addition to the coverage requirements set forth in this Section, the insurance certificate must state that should any of the required insurance be cancelled or not renewed, advanced written notice must be provided to the City Manager of such intent to cancel or not to renew. Within 30 days after receipt by the City of said notice, and in no event later than five days prior to said cancellation or intent not to renew, ZIPLY FIBER shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section.

Section 8. Other Permits & Approvals. Nothing in this Agreement relieves ZIPLY FIBER from any obligation to obtain approvals or permits from applicable federal, state, or City authorities for all activities in the Master Permit Area.

Section 9. Transfer of Ownership.

A. ZIPLY FIBER may not sell, transfer, assign, or otherwise encumber its rights provided by this Master Permit without the prior written consent of the City, which the City may not unreasonably withhold or delay. The City's consent is not required where ZIPLY FIBER transfers or assigns its rights under this Master Permit for the purpose of securing a debt, or where the transfer or assignment is to another person or entity controlling, controlled by, or under common control with ZIPLY FIBER. ZIPLY FIBER may license fibers to other users without the consent of the City, but ZIPLY FIBER remains solely responsible for complying with the terms and conditions of this Master Permit.

B. In any sale, transfer, or assignment of this Master Permit that requires the City's consent, ZIPLY FIBER shall demonstrate to the City that the recipient of such sale, transfer, or assignment has the technical ability, financial capability, and any other legal or general qualifications reasonably determined by the City to be necessary to ensure that the recipient can meet the terms and conditions of this Master Permit. The City Council will determine the qualifications of any proposed recipient in a public hearing and will approve or deny the sale, transfer, or assignment by resolution. ZIPLY FIBER shall, within 30 days of any sale, transfer, or assignment, of this Master Permit, reimburse the City for any actual and reasonable administrative costs incurred by the City in approving the sale, transfer, or assignment.

Section 10. Administrative Fees.

A. The City is precluded from imposing Master Permit fees for "telephone businesses", as defined in RCW 82.16.010, except that fees may be collected for administrative expenses related to a Master Permit. ZIPLY FIBER hereby warrants that its operations as authorized under this Master Permit are those of a telephone business as defined in RCW 82.16.010.

B. ZIPLY FIBER is subject to a reasonable administrative charge for reimbursement of costs associated with the preparation, processing, and approval of this Master Permit and for reimbursement of administrative costs for issuing any permits and for inspecting, monitoring, or supervising any actions required under Section 5 above. These costs include wages, benefits, overhead expenses, equipment, and supplies associated with such tasks as plan review, site visits, meetings, negotiations, and other functions critical to proper management and oversight of City's right-of-way. Administrative fees exclude normal permit fees as stipulated in Title 11 of the OMC.

C. In the event ZIPLY FIBER submits a request for work beyond the scope of the original Master Permit, or submits a complex project that requires significant plan review or inspection, ZIPLY FIBER shall reimburse City for costs incurred by the City with the request or project. ZIPLY FIBER shall pay such costs within 30 days of receipt of an invoice from the City.

D. Failure by ZIPLY FIBER to make full payment of invoices within the time specified is grounds for the termination this Master Permit.

Section 11. Notices. Any notice to be served upon the City or ZIPLY FIBER must be delivered to the following addresses respectively:

City:

City of Olympia
ATTN: City Manager
PO Box 1967
Olympia WA 98507

ZiPLY Fiber Pacific, LLC:

Attn: Legal Department
135 Lake Street South, Suite 155
Kirkland, WA 98033
Legal@ziPLY.com

With a copy to:

City of Olympia
ATTN: City Attorney
PO Box 1967
Olympia WA 98507

Section 12. Indemnification.

A. ZIPLY FIBER shall use reasonable and appropriate precautions to avoid damage to persons or property in the construction, installation, repair, operation, and maintenance of its structures and facilities. ZIPLY FIBER shall indemnify and hold the City harmless from all claims, actions, or damages, including reasonable attorney's and expert witness fees, which may accrue to or be suffered by any person or persons, entity, or property to the extent caused in part or in whole by any act or omission of ZIPLY FIBER, its officers, agents, servants, or employees, carried on in the furtherance of the rights, benefits, and privileges granted to ZIPLY FIBER by this Master Permit, including any delay or failure to comply with the City's directives to relocate or remove its equipment or facilities. In the event any claim or demand is presented to or filed with the City which gives rise to ZIPLY FIBER's obligation pursuant to this section, the City shall within a reasonable time notify ZIPLY FIBER thereof and ZIPLY FIBER may, at its election, settle or compromise such claim or demand. In the event any claim or action is commenced in which the City is named a party, and which suit or action is based on a claim or demand which gives rise to ZIPLY FIBER's obligation pursuant to this section, the City shall promptly notify ZIPLY FIBER thereof, and ZIPLY FIBER shall, at its sole cost and expense, defend such suit or action by attorneys of its own election. In defense of such suit or action, ZIPLY FIBER may, at its election and at its sole cost and expense, settle or compromise such suit or action.

B. To the extent of any concurrent negligence between ZIPLY FIBER and the City, ZIPLY FIBER's obligations under this paragraph only extend to its share of negligence or fault. The City may at all times participate through its own attorney in any suit or action which arises out of any right, privilege, and authority granted by or exercised pursuant to this Master Permit when the City determines that such participation is required to protect the interests of the City or the public. Such participation by the City is at the City's sole cost and expense.

C. With respect to the performance of this Master Permit and as to claims against the City, its officers, agents, and employees, ZIPLY FIBER hereby expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its officers, agents, and employees and agrees that the obligation to indemnify, defend, and hold harmless provided for in this paragraph extends to any claim brought by or on behalf of ZIPLY FIBER's officers, agents, or employees. This waiver is mutually negotiated by the parties.

Section 13. Severability. If any section, sentence, clause, or phrase of this Master Permit is held to be invalid or unconstitutional by a court having jurisdiction, the City may, at its sole option, deem the entire Master Permit to be affected and thereby nullified. However, in the event that a determination is made that a section, sentence, clause, or phrase in this Master Permit is invalid or unconstitutional, the City may elect to treat the portion declared invalid or unconstitutional as severable and enforce the remaining provisions of this Master Permit; provided that, if the City elects to enforce the remaining provisions of the Master Permit, ZIPLY FIBER may terminate this Master Permit.

Section 14. Reservation of Rights. This Master Permit is intended to satisfy the requirements of all applicable laws, administrative guidelines, rules, orders, and ordinances. Accordingly, any provision of this Master Permit or any local ordinance which may conflict with or violate the law is invalid and unenforceable, whether occurring before or after the execution of this Master Permit, it being the intention of the parties to preserve their respective rights and remedies under the law, and that the execution of this Master Permit does not constitute a waiver of any rights or obligations by either party under the law.

Section 15. Police Powers. Nothing contained in this Master Permit may be deemed to affect the City's authority to exercise its police powers. ZIPLY FIBER does not by this Master Permit obtain any vested rights to use any portion of the City right-of-way except for the locations approved by the City, and then only subject to the terms and conditions of this Master Permit. This Master Permit and the permits issued thereunder are governed by applicable City ordinances in effect at the time of application for such permits.

Section 16. Future Rules, Regulations, and Specifications. ZIPLY FIBER acknowledges that the City may develop rules, regulations, and specifications, including a general ordinance or other regulations governing telecommunications operations in the City. Such regulations, upon written notice to ZIPLY FIBER thereafter govern ZIPLY FIBER's activities under this Master Permit; provided, however, that in no event may regulations:

A. materially interfere with or adversely affect ZIPLY FIBER's rights pursuant to and in accordance with this Master Permit; or

B. be applied in a discriminatory manner as it pertains to ZIPLY FIBER and other similar user of such facilities.

Section 17. Effective Date. The City shall cause this Master Permit, or a summary, to be published in the official newspaper of the City, and this Master Permit takes effect five days after passage and publication as provided by law. Effectiveness of this Master Permit is subject to ZIPLY FIBER's acceptance of this Master Permit, as required by Section 4, above.

Section 18. Law and Venue. This Master Permit is issued under the laws of the State of Washington and is governed by and must be interpreted in accordance with Washington law. Any dispute arising out of or related to this Master Permit must be brought and maintained only in Thurston County Superior Court, which is the exclusive venue for any such claim.

Section 19. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 20. Ratification. Any act consistent with the authority and prior to the effective date of this Master Permit is hereby ratified and affirmed.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Michael M. Young

DEPUTY CITY ATTORNEY

PASSED:

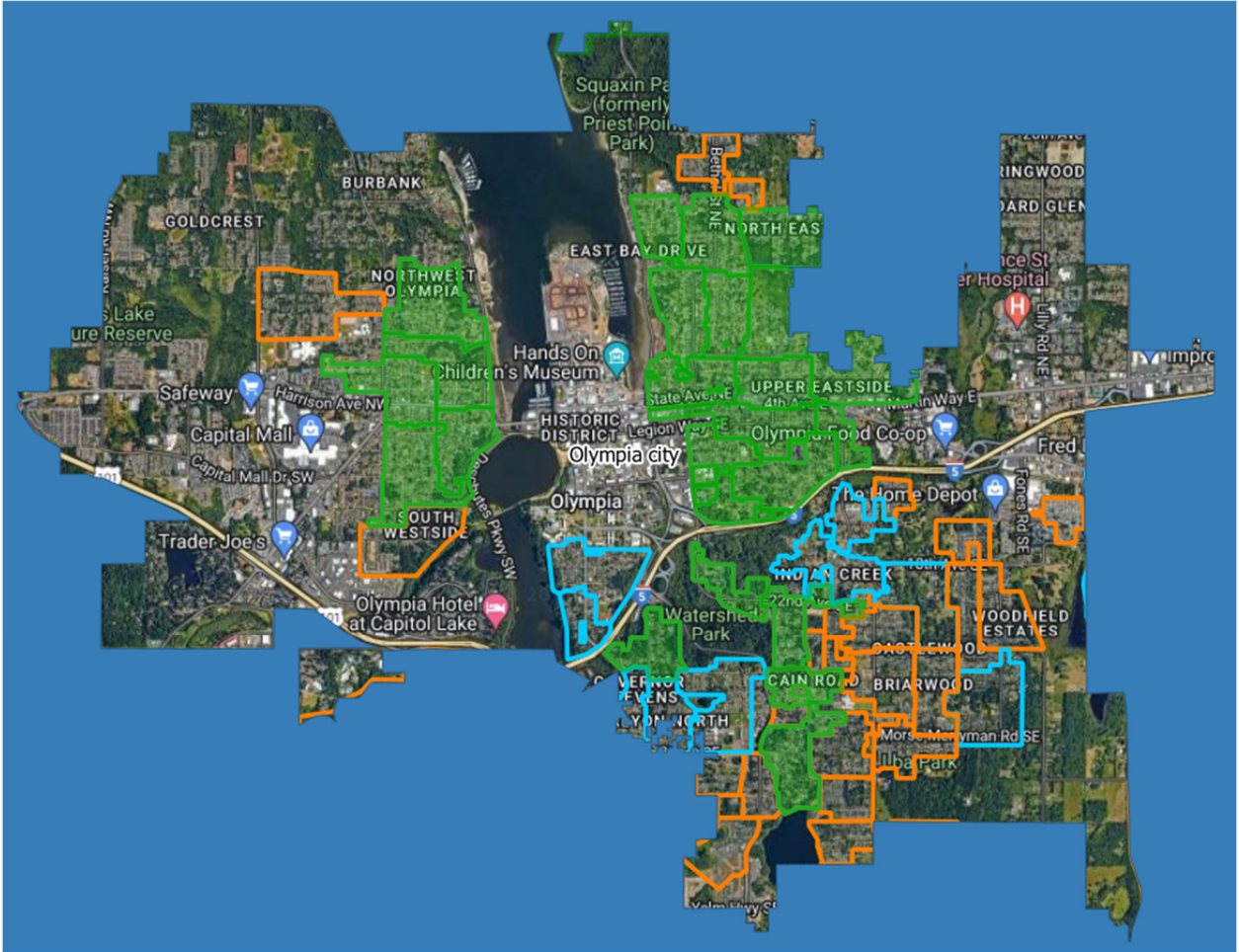
APPROVED:

PUBLISHED:

ATTACHMENTS: *EXHIBIT A, ZIPLY FIBER system map (combination ZIPLY FIBER / facilities)*
EXHIBIT B, Master Permit Acceptance Form, ZIPLY FIBER

EXHIBIT A

ZiPLY Fiber Proposed System Map



LEGEND:

Green = Probable

Blue = Under Path/Cost Review

Orange = Soft Surface Evaluation

EXHIBIT B

MASTER PERMIT ACCEPTANCE FORM

ZIPLY FIBER

Date: _____

City of Olympia
City Clerk's Office
PO Box 1967
Olympia, WA 98507

Re: Ordinance No. _____
Adopted _____

In accordance with and as required by Section 4 of the City of Olympia Ordinance referenced above, Ziplly Fiber Pacific LLC, hereby accepts the terms, conditions, and obligations to be complied with or performed by it under the Ordinance.

I certify that I am duly authorized to execute this acceptance on behalf of Ziplly Fiber Pacific LLC.

Signature

Printed Name and Title