

ORDINANCE NO. 6 6 7 0

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE RENEWAL AND AMENDMENT OF ORDINANCE NO. 6452 FOR ZAYO GROUP, LLC, FRANCHISE AGREEMENT NO. 12-41 FOR A TELECOMMUNICATIONS SYSTEM

WHEREAS, on April 1, 2012, the City Council adopted Ordinance No. 6452, granting a telecommunications franchise to Zayo Group, LLC; and,

WHEREAS, Zayo Group LLC wishes to renew said Franchise Agreement for an additional five year term; and

WHEREAS, following proper notice, the City Council held a public hearing on Zayo Group, LLC's request for renewal of Ordinance No. 6452, at which time representatives of Zayo Group, LLC and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, based upon the foregoing recital clauses and from information presented at such public hearing and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that the renewal of Ordinance No. 6452 be granted to Zayo Group, LLC.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows:

Section 1. The City approves Zayo Group, LLC's application for renewal for one five-year period as provided for in Section 3 of Ordinance No. 6452, a copy of which is attached hereto, marked as Exhibit A, under the conditions set forth in this Ordinance. Such five-year renewal period shall commence on the effective date of this Ordinance.

Section 2. Section 2, Paragraph A. of Ordinance No. 6452 regarding Grantee contact information is hereby amended as follows;

Grantee:

Zayo Group, LLC
Attn. General Counsel, ~~ZFTI~~
~~400 Centennial Parkway, Suite 200~~
1805 29th Street, Suite 2050
~~Louisville, CO 80027~~
Boulder, CO 80301

Section 3. Zayo Group, LLC shall, within thirty (30) days after the effective date of this Ordinance, file with the City, a fully executed Statement of Acceptance of this Ordinance, which written acceptance shall be Exhibit B, attached hereto and incorporated herein by this this reference.

Section 4. This Ordinance shall supersede Ordinance No. 6452 to the extent that it contains terms and conditions that change, modify, delete, add to, supplement or otherwise amend the terms and conditions of Ordinance No. 6452. All other provisions of Ordinance No. 6452 shall remain unchanged and in full force and effect.

Section 5. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 6. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 7. Effective date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____

EXHIBIT "B"

STATEMENT OF ACCEPTANCE

Zayo Group, LLC., for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise Agreement, Ordinance No. 6452, attached hereto and incorporated herein by this reference as amended by Ordinance No. 6670.

Zayo Group LLC
1805 29th St SE, Suite 250
Boulder, CO 80301

By: _____ Date: _____
Name:
Title:

STATE OF _____)
)ss.
COUNTY OF _____)

On this ____ day of _____, 2018, 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: _____