



Harrisburg City Council Business Meeting Minutes
September 14, 2021
6:30 PM

Mayor:	Robert Duncan
Council President:	Mike Caughey
Councilors Present:	Kimberly Downey, Robert Boese, Adam Keaton
Councilors Absent:	Randy Klemm, and Charlotte Thomas
Staff Present:	City Administrator Michele Eldridge, Public Works Director Chuck Scholz, Finance Officer Cathy Nelson, and City Recorder Lori Ross
Meeting Location:	Harrisburg Municipal Center @ 354 Smith St

CALL TO ORDER AND ROLL CALL by Mayor, Robert Duncan at the hour of 6:43pm.

CONCERNED CITIZEN(S) IN THE AUDIENCE. All in attendance were there for items on the agenda.

THE MATTER OF DISCUSSING THE HARRISBURG FISCAL YEAR 2019-2020 AUDIT REPORT WITH THE AUDITOR, STEVE TUCHSCHERER

STAFF REPORT: City Auditor Tuchscherer, who is attending via Zoom, commented this was a clean audit, nothing was omitted, and it was a fair representation of FY 2019/2020. Some of the highlights included:

- Tuchscherer commented that page 14 is a statement of net position and is a representation of City assets broken into two columns; business activities which include water and sewer funds and governmental activity which is everything else including HRA funds. He stated that the City has a unique arraignment of funds which can create challenges in this reporting.
- The liabilities section shows bonds payable of \$11 million. Most of this was transferred over into the water/sewer funds for utility projects because the expenditures of those funds were through the capital projects funds then recorded on the governmental side.
- On page 15, equity transfers of \$8.75 million was paid out for capital improvement then handed over to the water/sewer fund from capital improvement fund for ownership of assets. This is confusing but there is no way to make it less, unless the City was to

September 14, 2021

separate the capital project funds or to budget for capital projects active within those utility funds and the same to any debt related to it.

- On page 16, the balance sheet for governmental funds, shows no reference to long term debt or capital assets due to changing the way we look at budgetary accounting. The City does not recognize the debt in the budget except for what's required to be paid making this balance sheet much simpler.
- On page 20, it shows the proprietary funds, the capital assets, and liabilities. On this report there is no reconciliation between accounting and proprietary funds and the reason is to allow the City to see business activities more like they were a business which is useful when selling bonds or obtaining loans.
- Notes of the financial statements, starting on page 23, shows a lot of detail that helps you understand the financial statements and the budgetary schedules.
- Tuchscherer noted that the City was in good shape at the end of FY 2020 and its due to the interaction with Nelson and Eldridge in getting the reports done.
- Mayor Duncan thanked Tuchscherer for explaining the audit to Council.
 - **Caughey motioned to approve the City's Fiscal Year 2019-2020 Audit Report, as presented by the Auditor Steve Tuchscherer, and was seconded by Downey. The City Council then voted unanimously to approve the City's Fiscal Year 2019-2020 Audit Report, as presented by the Auditor Steve Tuchscherer.**

THE MATTER OF APPROVING THE CONSENT LIST

STAFF REPORT: Caughey asked to remove the payment approval report from the Consent List and had a question about the citation report.

- Caughey asked what the difference was between the abbreviation LCS and LCSO. Ross replied that both are the Linn County Sheriff Office and explained the Caselle Software that we use for court was set up with both abbreviations.
- Caughey asked about the payment approval report, in reference to the Cobalt payment of \$9,832.80. Nelson replied it's our annual charge for Microsoft software and security support for 14 employees. Caughey then asked about the payment for Pacific Underground for the amount of \$20,564.28. Scholz commented that it was the final payment for the sewer crossover under the tracks.
 - **Downey then motioned to approve the Payment Report for August 2021 and was seconded by Boese. City Council then voted unanimously to approve the Payment Report for August 2021.**
 - **Downey then motioned to approve the Consent List and was seconded by Caughey. City Council then voted unanimously to approve the Consent List.**

The item approved by this action was as follows:

- **Harrisburg City Council Minutes for June 22, 2021**

THE MATTER OF APPROVING ORDINANCE NO 979, "AN ORDINANCE RENEWING THE FRANCHISE OF AT & T CORPORATION THROUGH ITS INTERSTATE DIVISION FOR THE PLACEMENT OF COMMUNICATION FACILITIES WITHIN THE CITY OF HARRISBURG, STATE OF OREGON, AND REPEALING ORDINANCE NO. 902"

STAFF REPORT: Eldridge pointed out that the agenda packets were missing half of the redlined changes made to Ordinance 902 (EXHIBIT B) and therefore, we have supplied those pages tonight. **(ADDENDUM 1)** Eldridge stated that AT&T has been wonderful to work with and they had no issues with the changes made. She pointed out that last fiscal year the City had \$14,000 budgeted and received \$16,000 from AT&T. Some changes made to the Franchise Agreement

included section 3.1(C) and 3.2 for emergency situations and on page 3 due to the Oregon Contract Laws.

- Downey motioned to approve Ordinance No. 979, “An Ordinance Renewing the Franchise of AT&T Corporation through its Interstate Division for the Placement of Communication Facilities within the City of Harrisburg, State of Oregon, and Repealing Ordinance No. 902” and was seconded by Caughey. City Council then voted unanimously to approve Ordinance No. 979, “An Ordinance Renewing the Franchise of AT&T Corporation through its Interstate Division for the Placement of Communication Facilities within the City of Harrisburg, State of Oregon, and Repealing Ordinance No. 902.”

CITY ADMINISTRATOR VERBAL REPORT

1. **HURDS HARDWARD:** Eldridge informed Council that Hurd’s Hardware received the award for the Tri-County Chamber of Commerce Large Business of the Year. Hurds has received this award several times before as they are wonderful members of the community.
2. **WOODHILL:** Is the sub-division on the southern portion of Sommerville Loop. Eldridge stated considerations are still being made, but they might be changing from 31 lots to 10 lots. They started looking at the storm water and detention systems and recognized they would have to lose two lots in order to compensate for the 25-year storm. Because of that, they are considering not having the second street going through the wetlands and to keep the 9th St extension. Downey commented they are losing half of their lots and Mayor Duncan replied that it cost a lot to put a street in. Eldridge added that the detention system is also expensive. She is hoping to keep them at the higher number as no decision has been made yet.
3. **BUTTERFLY:** Eldridge informed Council, they are close to being finished with all of the engineering development. Once they complete the technical review with Eldridge and the City Engineer, and the County Survey’s Office for recording, they can start selling.
4. **SHADWOOD:** Eldridge informed Council they are asking for a one-year extension next week at the Planning Commission meeting. Downey asked where it was located and if it was multi-dwelling. Eldridge replied that it’s located at the end of Sommerville Loop and is R-3 high density that includes two 9,000 sq ft lots. Caughey asked who was paying for 9th St and Scholz replied it was Woodhill as part of the infrastructure cost.
5. **S 9TH ST EXTENTION:** Eldridge stated this is the extension that runs from Max Hammer to Sommerville Loop which will help with congestion on Sommerville Loop associated with the new construction. Eldridge noted that she will be reaching out to Aaron Brown about the possibility of obtaining 10 feet of his property in order to provide curb and gutters.
6. **BN:** This franchise agreement expires in 2022. Eldridge commented that Marty Wilde did speak with some lobbyist in Salem, and one of them will look into getting the City paid on the outstanding \$550 bill from 2017. We are also having our surveyor research 4th St and the Railroad, to see which came first.
7. **DISTINGUISHED SERVICE AWARDS:** Eldridge reminded Council the deadline to nominate someone is October 1st for this award. There are a lot of deserving people in Harrisburg, and unlike the business awards, you can only win once.

OTHER ITEMS

- Scholz informed Council of good news he received yesterday from the design engineers with ODOT, that are working on Junction City, Monroe, Aurora, and Harrisburg ADA ramps. He feels their set of plans look really good for Harrisburg getting the rapid flash beacon for the ODOT 2022/2024 budget cycle.
- Scholz then informed Council on his bad news, stating that the City was notified that we exceeded the action level for lead in our drinking water and felt this is an incorrect statement. Normally, we have one home that is relatively consistent of being over the federal EPA for lead. However, once you hit two homes or 10 percent of the homes you tested, you fall under this category. The City test 20 homes every three years by rule. The test consists of distributing small testing bottles to homes that meet the criteria for the most probability. The bottles are left with instructions then picked up the next day for submission to the lab. We also test the City system, monthly and quarterly and we have not had any lead or copper presence. If a test comes back positive, the EPA has a set of rules, the City must follow to help alleviate the homeowner's problem. Scholz noted that one of the homes, is in a section that has had the mainline as well as their service line replaced and commented that the resident informed him that the water was taken from a faucet she never uses. Due to this, the City has had to retest our wells to show no presence and they require the City to distribute a pamphlet with the water bill once a year for the next three years as well as include a quarterly statement in the water bill informing residents that the City has been found to have high levels of lead or copper. Chuck referred Council to the pamphlet, ADDENDUM 2. The EPA also requires several steps to be submitted by 2024 including an action plan and a modify treatment plan to reduce the alkalinity in the water. This will include another chemical being added to the drinking water, which he stated was not a bad chemical. Scholz doesn't want to make light of the fact that lead can be extremely hazardous for a certain group of people and if you get too much it's very bad for you. He stated he reached out to the residents who tested positive and helped them come up with a plan to help the levels stay as low as possible, by suggesting a filter that targets lead and flushing water prior to cooking. Scholz stated that he has updated the City website the helpful information and well as supplied links on the pamphlet. Downey asked if the City test residents' water and Scholz answered that we don't. The only homes we test, are old homes, prior to 1986 that meet certain criteria and only during our testing year. If residents would like to test their water, there is information available in the pamphlet regarding at home kits or testing laboratories.
- Keaton asked Council if they have seen the underpass on Hwy 99 by Delta/Beltline where they are installing ADA ramps with no sidewalks. Scholz commented that ODOT was sued to put in ADA ramps, not sidewalks. Downey stated that she receives constant complaints about the bulb outs on Smith St. Scholz commented that he has had several residents say that they love it especially on the 4th of July.
- Keaton asked if anyone has spoken with businesses regarding the use of the slow tracks and Scholz stated that he has spoken with two, one had a concern and the other did not.
- Keaton informed the Council that the School Board was on the news this morning regarding their vote to comply with the State of Oregon mask mandate and explained that the board voted 3-2 to comply. He was thinking this might be a good time for Council to do something. Downey stated that the City would need to be careful and advise legal counsel to avoid any legal repercussions. Mayor Duncan commented that he spoke with the superintendent before the latest mandate and asked what he thought he would do. It was relayed that he would leave it open to whatever the board advised.

September 14, 2021

- Keaton stated that he is chairing up for the Law and Criminal Justice Plank of the Republican Platform Convention and wanted to know if anyone wanted to speak with him about it? Mayor Duncan asked how the redistricting was going and Keaton stated some of the maps show Portland in all six Congressional Districts and some that are 50/50. In the House District we end up in a better position, but with the Senate District, we end up with one of the Eugene Districts. He's not sure if we will end up better as far as representation.
- Eldridge stated that Cameron McCarthy's agreement went through, and we will be setting up our first meeting. She also noted that she has found some new grants including one for trails.
- Mayor Duncan spoke of former Youth Advisory Committee member, Quinton Sheridan and stated he had several proposals for City Council including people in need, animal resources and a youth center for young people. Caughey asked if we were going to get a youth representative this year, and Eldridge responded that she would look into it.

ADJOURN at the hour of 7:52pm.

MAYOR

CITY RECORDER

ORDINANCE NO. 902

AN ORDINANCE RENEWING THE FRANCHISE OF AT&T CORP. (FORMERLY AMERICAN TELEPHONE AND TELEGRAPH COMPANY) THROUGH ITS INTERSTATE DIVISION FOR THE PLACEMENT OF COMMUNICATION FACILITIES WITHIN THE CITY OF HARRISBURG, STATE OF OREGON, AND SUPERCEDING ORDINANCE NO. 8902

WHEREAS, the CITY OF HARRISBURG has determined it appropriate and in the best interests of the public to allow AT&T CORP. the nonexclusive privilege of using the public way to construct and maintain communication facilities within the corporate limits of the City; now, therefore,

THE CITY OF HARRISBURG ORDAINS AS FOLLOWS:

SECTION 1: Definition of Terms

1.1 **Terms.** For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number:

- A. "City" means the City of Harrisburg, Oregon, or the lawful successor, transferee, or assignee thereof.
- B. "Communication Facilities" means all conduits and associated structures owned by Grantee for use of Grantee in providing telecommunication services.
- C. "FCC" means Federal Communications Commission.
- D. "Grantee" means American Telephone and Telegraph Company, or the lawful successor, transferee, or assignee thereof.
- E. "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.
- F. "Public Way" shall mean any public street, highway, bridge, alley, court, sidewalk, parkway, lane, ~~public way~~, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way, ~~dedicated for compatible uses~~ now or hereafter held by the City.
- G. "Service Area" means the present boundaries of the City, and shall include any additions thereto by annexation or other legal means.

Commented [ME1]: Removed extraneous words including circular references

SECTION 2: Grant of Franchise

2.1 **Grant.** The City hereby grants to the Grantee a nonexclusive Franchise which authorizes the Grantee to use the public way to construct and maintain underground communication facilities within the corporate limits of the city.

2.2 Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither the City nor the Grantee may unilaterally alter the material rights and obligations set forth in this Franchise.

2.3 Term. The Franchise granted hereunder shall be for an initial term of ten (10) years commencing October 1, 2011, unless otherwise lawfully extended or terminated in accordance with the terms of this Franchise.

SECTION 3: Standards of Service

3.1 Conditions of Use.

A. The communication facilities installed by the Grantee pursuant to the terms hereof shall be located so as to cause ~~the least a minimum amount~~ of interference with the proper use of Public Way and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways. In the event the public, ~~or the City~~ is unnecessarily inconvenienced by the Grantee's communication facilities, the City may require the removal or change of location of any such facilities at Grantee's expense.

B. The communication facilities shall be underground, and all work shall comply with the standard specifications of the City and all other applicable federal, state, and local laws and regulations.

C. The City ~~has and retains shall have~~ the ~~authority ability~~ to prescribe which Public Ways will be used and the location within a Public Way.

D. No work shall be done by the Grantee without first obtaining the permits required by the City, which may include plan approval, and the payment of any required fees.

3.2 Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the communication facilities there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance. In the event Grantee fails to restore the Public Way to a condition reasonably comparable to the condition existing immediately prior to such disturbance, the City may restore or cause to restore such Public Way at the expense of Grantee; provided, that the City provides Grantee with reasonable notice to restore, and Grantee fails to restore such Public Way within the time period given by the City. Unless life, health or safety indicates a lesser notice period, Grantee agrees that a thirty (30) day calendar period is "reasonable notice to restore."

3.3 Relocation at Request of the City.

Upon its receipt of reasonable advance written notice, to be not less than five (5) business days, the Grantee, at its own expense, shall protect, support, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the City which are not used to compete with the Grantee's services. The Grantee shall in all cases have the right of abandonment of its property.

Commented [ME2]: David and I both agreed that obsolete facilities shouldn't be left in the City's ROW

3.4 **Relocation for a Third Party.** The Grantee shall, on the request of any Person holding a lawful permit issued by the City, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of Grantee, provided:

A. The expense of the change shall be paid by the Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance.

B. The Grantee shall be given reasonable advance written notice to prepare for such changes. For purposes of this Section 3.4, "reasonable advance written notice" shall be no less than sixty (60) business days in the event of a temporary relocation, and no less than 120 days for a permanent relocation.

3.5 **Trimming of Trees and Shrubbery.** The Grantee shall have the authority to trim trees or other natural growth within the Public Ways as necessary in order to access and maintain the communication facilities.

3.6 **Safety Requirements.** Construction, operation, and maintenance of the communication facilities shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code. The communication facilities shall not endanger or unreasonably interfere with the safety of Persons or property in the Service Area.

3.7 **System Standards.** The Communication Facilities shall meet all applicable technical standards of the FCC.

SECTION 4: Regulation by the City

4.1 Franchise Fee.

A. The Grantee shall pay to the City a franchise fee equal to ~~\$4.89~~-~~7.59~~ per lineal foot of communication facilities, with the fee increasing annually by 5% each October 1st. The franchise fee payment shall be paid annually, by November 1st of each year. If there is less than a full year at the start or conclusion of the franchise agreement, the franchise fee shall be prorated during those periods.

B. The payment of the franchise fee shall not be credited toward the payment of property taxes or payments in lieu thereof, nor any tax adopted by the City, nor credited toward any permit fees required by the Harrisburg code.

C. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be ~~six (6) years~~ from the date on which payment by the Grantee is due. Actions on fee disputes are limited to and must be brought within four (4) years.

4.2 **Transfer of Franchise.** The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by, or under enforceable common control with the Grantee, without the prior consent of the City, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise in order to secure indebtedness. Within thirty (30) days of receiving a request for transfer, the City shall notify the Grantee in writing of any

Commented [DC3]: Oregon contract law generally provides 6 year limitation for breach of contract. I'm ok with limiting our rights as we should not let failures to pay go unresolved for even one year. This limitation could be made reciprocal as follows:

Actions on fee disputes are limited to and must be brought within four (4) years.

additional information it reasonably requires to determine the legal, financial and technical qualifications of the transferee. If the City has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent by the City shall be deemed given, unless the requesting party and City agree to an extension of time. Within 30 days of a lawful transfer to a successor, transferee, assignee or when an entity controlling, controlled by, or under enforceable common control with the Grantee gains the right, title, interest and obligations under this Franchise, or when Grantee changes its corporate name, Grantee will give notice to the City.

SECTION 5: Books and Records

Grantee shall maintain "as built" drawings for the communication facilities at Grantee's business office, and make them available to the City for inspection during normal business hours upon written request. "As built" drawings shall be updated as changes occur in the communication facilities serving the Service Area. Upon written request of the City, Grantee shall provide the City copies of trench maps showing the location of Grantee's lines within the Public Ways in the Service Area.

SECTION 6: Insurance and Indemnification

6.1 Insurance Requirements. The Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Commercial General Liability Insurance in the amount of \$1,000,000 combined single limit for bodily injury and property damage. The City shall be designated as an additional insured. Such insurance shall be noncancellable except upon thirty (30) days prior written notice to the City. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required.

Commented [DC4]: I recommend City's Insurer review and comment on the type and level of necessary insurance.

Commented [MESR4]: Jeff already indicated that \$1 million was sufficient for Lumen. Chuck, let me know if you think that AT&T would be located somewhere in which we should increase our liability coverage.

Commented [CS6]: I know of no location that would require more.

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the City, ~~its~~ its officials, ~~its~~ officers, boards, commissions and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of Grantee's construction, reconstruction, operation, ~~or~~ maintenance or similar activities related in any and every way to its communication facilities, provided that the City shall give Grantee written notice of its obligation to indemnify the City within ten (10) days of receipt of a claim or action pursuant to this Section 6.2. Notwithstanding the foregoing, Grantee shall not indemnify the City for any damages, liability, or claims resulting from the willful misconduct or sole negligence of the City.

6.3 Bonds and Other Surety. No bond or other surety shall be required of Grantee at the inception of the Franchise. In the event Grantee is required by the City to obtain a bond or other surety in the future, the City agrees to give Grantee at least 60 days advance written notice thereof stating the specific reasons for such requirement. Such reasons must demonstrate a change in Grantee's legal, financial or technical qualifications that would materially prohibit or impair Grantee's ability to comply with the terms and conditions of this Franchise.

SECTION 7: Enforcement and Termination of Franchise

7.1 Notice of Violation. In the event that the City believes that the Grantee has not complied with the terms of the Franchise, the City shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the City shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

7.2 The Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in Section 7.1 ~~to:~~ (A) ~~to~~ respond to the City, contesting the assertion of noncompliance, or (B) ~~to~~ cure such default, or (C) in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

~~7.3 Public Hearing. In the event that the Grantee fails to respond to the notice described in Section 7.1 pursuant to the procedures set forth in Section 7.2, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to 7.2(C) above, if it intends to continue its investigation into the default, then the City shall schedule a public hearing. The City shall provide the Grantee at least ten (10) days prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide Grantee the opportunity to be heard.~~

Commented [ME7]: David recommended we remove this public hearing resolution as it provides franchisee with an additional litigation opportunity (Writ of Review) 7.1 and 7.2 provide the steps for the franchise to cure or respond

7.43 Enforcement. Subject to applicable federal and state law, in the event the City, after the hearing set forth in Section 7.3, determines that the Grantee is in default of any provision of the Franchise, the City may:

- A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or
- B. Commence an action at law for monetary damages or seek other equitable relief; or
- C. In the case of a substantial default of a material provision of the Franchise, seek to revoke the Franchise in accordance with Section 7.5.
- D. Take any other remedial actions at law or in equity the City deems necessary or convenient.

7.4 Revocation Should the City seek to revoke the Franchise after following the procedures set forth in Section 7.1-7.4 ~~3~~ above, the City shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The City shall cause to be served upon the Grantee, at least thirty (30) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

Following the hearing, the City shall determine whether or not the franchise shall be revoked. If the City determines that the franchise shall be revoked, Grantee may appeal such determination to a court of competent jurisdiction, an appropriate court, which shall have the power to review the decision of the City de novo. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the City.

The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the Franchise in lieu of revocation of the Franchise

7.65 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused solely by circumstances reasonably beyond the ability of the Grantee to anticipate and control.

SECTION 8: Miscellaneous Provisions

8.1 Actions of Parties. In any action by the City or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.2 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the City. Amendments to this Franchise shall be mutually agreed to in writing by the parties.

8.3 Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope: a) upon receipt when hand delivered with receipt/acknowledgment, b) upon receipt when sent certified, registered mail, or c) within five (5) business days after having been posted in the regular mail.

The notices or responses to the City shall be addressed as follows:

City of Harrisburg
~~Finance Officer~~ City Administrator
P.O. Box 378
Harrisburg, OR 97446-0378
(541) 995-6655

The notices or responses to the Grantee shall be addressed as follows:

AT&T Corp.
Right of Way Dept., Room 162
3450 Riverwood Parkway, SE
Atlanta, GA 30339
678-627-5330

The City and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this Section 8.3.

8.4 Descriptive Headings. The captions to sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

Commented [CS8]: As in most of our agreements I always ask myself 'what if the franchise agreement was revoked. The agreement usually fails to say 'what's next' does the utility have a period of time to remove their infrastructure, sell it to another with approval from the city or after a certain amount of time does their infrastructure become the cities? More of question for attorney im sure

Commented [ME9R8]: David should we add a clause about notification to the City if they wish to sell it to another company, or notifying the City if it changes hands? This is similar to the issue with Lumen who used to be Century Link

Commented [DC10]: If transferred or assigned, that is addressed at 4.2. When the entity changes form or name we should require notice. See modification at 4.2

8.5 Severability. If any section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having direct jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

8.6 Effective Date. The effective date of this Franchise is October 1, 2021, pursuant to the provisions of applicable law. This Franchise shall expire on September 30, 2031, unless extended by the mutual agreement of the parties.

INTRODUCED AND ADOPTED by the City Council of the City of Harrisburg and signed by me in authentication of its passage this 14th day of ~~March~~ September 2021.

CITY OF HARRISBURG, OREGON

Robert Duncan, Mayor

AYES: _____

NAYS: _____

ATTEST:

By: _____
Lori Ross, City Recorder

Accepted this 14th day of September 2021, subject to applicable federal, state and local law.

AT&T CORP.

Signature: _____

*Important Information About***LEAD IN YOUR DRINKING WATER**

The City of Harrisburg found elevated levels of lead in drinking water in some homes and buildings. Lead can cause serious health problems, especially for pregnant women and young children. Please read this information to see what you can do to reduce lead in your drinking water.

Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause serious damage to the brain and kidneys and can interfere with the production of red blood cells that carry oxygen to all parts of your body. Lead can have serious effects on adults with kidney problems or high blood pressure. During pregnancy, the child receives lead from the mother which can affect development.

SOURCES OF LEAD

Lead is a common metal element. There are NO lead service lines in the City of Harrisburg's water pipe distribution system. The main source of lead is in solder used to join pipes in household plumbing fixtures.

**For More Information**

Call us or visit our website

More information on reducing lead exposure around your home and buildings and the health effects of lead, visit the EPA's website at www.epa.gov/lead, contact a local health care provider or visit www.oregon.gov/Pages/index.aspx

City of Harrisburg

120 Smith Street
PO Box 378
Harrisburg, OR 97446

Phone: 541-995-6655
Fax: 541-995-9244
www.ci.harrisburg.or.us

*Reduce Exposure to***LEAD IN
DRINKING
WATER &
HOUSEHOLD
PLUMBING.**



Flush out & Reduce Exposure

- Before using water for drinking or cooking, run water for 1 to 2 minutes
- Do not cook or drink water from the hot water tap, lead dissolves more easily in hot water
- Do not boil water to reduce lead, boiling water will not reduce lead
- Do not use water from your faucets hot water tap to prepare baby formula
- Regularly clean the faucet aerator, lead can become trapped and build up
- Consider purchasing and replacing your fixtures with new low-lead plumbing fixtures. As of January 2014 all fixtures sold must be low-lead fixtures

Reduce Exposure to lead (continued)

- Have your household tested for lead. Lead can be tested at any certified lab or home/ mail-in test kits can be purchased at most major hardware stores or purchased online.
- If you are concerned or have elevated levels of lead in your home consider purchasing a water filter to remove it from the faucets you use for drinking. Be sure it is designed to reduce lead. Not all filters do. You must always maintain and replace the filtration device in accordance with the manufacturer's instructions to protect your water quality.
- If you are interested, Ask your physician to get information about how to have your child tested for lead. A blood level test is the only way to know if your child is exposed to lead.



Out of 20 homes that were sampled and tested in the summer of 2021, 2 homes exceeded the EPA lead action level of 15 parts per billion. One part per billion (ppb) in water means one drop in one billion drops of water or about one drop of water in a standard size swimming pool. When more than 10 percent of the homes tested are above the action level the City of Harrisburg is required to notify the public and implement corrective actions. The City of Harrisburg receives its water from 5 wells which is then pumped directly to your homes. The City of Harrisburg is currently in the middle of a massive water system upgrade with several miles of new water main lines, two storage tanks and two new water treatment plants which are now required to implement Corrosion Control Treatment as part of the system upgrades. Work should be completed in 2024.

What Happened ? What's being done?