



FINANCE AND POLICY COMMITTEE MEETING

TUESDAY, SEPTEMBER 3, 2024 | 6PM

1st committee meeting

The Committee will meet in Mauldin City Hall at 5 East Butler Road in the Council Chambers at 6 p.m.

The meeting will be available remotely through Zoom. Please visit the City's website at <https://cityofmauldin.org/your-government/meeting-minutes-agendas/> to access the meeting via audio and videoconferencing.
A quorum of Council will be present.

**FINANCE AND POLICY COMMITTEE
MEETING
SEPTEMBER 3, 2024, 6PM
CITY HALL - COUNCIL
CHAMBERS 5 E. BUTLER
ROAD**

Committee Members: Michael Reynolds (Chair), Members Carol King and Taft Matney

- | | |
|---|----------------------|
| 1. <u>Call to Order</u> | Chairperson Reynolds |
| 2. <u>Public Comment</u> | Chairperson Reynolds |
| 3. <u>Reading and Approval of Minutes</u> | Chairperson Reynolds |
| a. Finance Committee Minutes-August 5, 2024
[Pages 3-6] | |
| b. Finance Committee Workshop Minutes- July 1,
2024 [Page 7] | |
| 4. <u>Reports or Communications from City Officers</u> | Chairperson Reynolds |
| a. City Administrator Seth Duncan | |
| b. Finance Director Holly Abercrombie | |
| c. HR Director Mark Putnam | |
| 5. <u>Unfinished Business-</u> None | Chairperson Reynolds |
| 6. <u>New Business</u> | |
| a. Ordinance 1045- Franchise Agreement with
Frontier Communications [Pages 8-30] | Chairperson Reynolds |
| b. FY 2024 Surplus Plan [Pages 31-37] | |
| 7. <u>Public Comment</u> | Chairperson Reynolds |
| 8. <u>Committee Concerns</u> | Chairperson Reynolds |
| 9. <u>Adjournment</u> | Chairperson Reynold |

FINANCE AND POLICY COMMITTEE MEETING
AUGUST 5, 2024, 6PM
CITY HALL - COUNCIL CHAMBERS 5 E. BUTLER ROAD
5th committee meeting

Committee Members present: Michael Reynolds (Chair), Members Carol King and Taft Matney
Others present: Finance Director Holly Abercrombie, HR Director Mark Putnam and City Administrator Seth Duncan

1. Call to Order- Chairman Reynolds

2. Public Comment- None

3. Reading and Approval of Minutes

a. Finance Committee Minutes-July 1, 2024

Motion: Councilman Matney made a motion to accept the minutes with Councilwoman King seconding.

Vote: The vote was unanimous (3-0).

4. Reports or Communications from City Officers

a. City Administrator Seth Duncan

Mr. Duncan reported SCDOT has paid the City for the easements associated with Building a Better Butler in the amount of \$240,605.

The storm drain cap on East Butler that has disintegrated should be fixed within a few weeks.

b. Finance Director Holly Abercrombie
Budget Review

Ms. Abercrombie advised the committee the year end numbers should be sent soon.

c. HR Director Mark Putnam

Mr. Putnam told committee that the MASC SCMIT/SCMIRF audit was done last week and we did very well.

He then reported the insurance renewal is complete for 2025. The City will see a 4.3% increase, but it has nothing to do with claims. Our claims experience has been great. The increase is inflation based. Because there was a 7% increase already budgeted, the City will be able to absorb the increase with no impact on employees.

5. Unfinished Business

a. Resolution 06-2024- Employee Policy Manual

Motion: Councilwoman King made a motion to send this resolution to Council with Councilman Matney seconding.

Vote: The vote was unanimous (3-0).

6. New Business

a. Ordinance 1043- Franchise Agreement with Ripple Fiber

Ripple Fiber is interested in bringing their high-speed internet to residents in Mauldin. Their first area of interest is the Carriage Run neighborhood off Holland Road. The subdivision does have an HOA and Ripple would need their permission prior to installation as the roads in the neighborhood are all private. Though no public ROW will be accessed, Ripple still needs an agreement approved by City Council in order to operate in the City.

At this time, this is the only location Ripple Fiber is interested in, but could be interested in the City's growth corridors. The company has told staff that their primary business focus is in areas that are not built out with 2 or 3 providers, but rather underserved areas and areas without competition. This area of the City is only served by a single provider

Motion: Councilman Matney made a motion to send this item to Council with Councilwoman King seconding.

Councilman Matney said he is generally in favor of an agreement like this, but the company would not be bound by their current intentions of only going into one neighborhood. He is concerned that other parties are looking at the City and wonders how many times the residents will have ROWs in front of their houses dug up for high-speed internet.

Councilman Matney asked if there was a way to take this agreement and limit it to the area they asked for initially. City Administrator Duncan said we could, but the company probably wouldn't agree to it. Councilman Matney asked if we could tighten up the language saying yards would be left in the same condition as they were in when the company first started the work. City Administrator Duncan said that provision could be written into our ordinance rather than in each agreement separately.

Vote: The vote was unanimous (3-0).

b. Resolution 07-2024- Lease Purchase Agreement

In June, Council approved a FY2024-2025 Budget that included provisions for purchasing various equipment and vehicles for City Departments. The total purchase price was not to exceed \$1,414,000 for the following items:

6 Police Patrol Cars
Sanitation Grapple Truck
Side-Loader Trash Truck
2 Pick-up Trucks
Sewer Camera Van
Sewer mini Excavator

Staff issued an RFP in July with a due date of Thursday, August 1st. First Citizens Bank was the bidder with the lowest interest rate and is the recommendation of staff.

Motion: Councilwoman King made a motion to send this resolution to Council with Councilman Matney seconding.

Vote: The vote was unanimous (3-0).

c. Resolution 08-2024- Reappoint Board of Directors to Mauldin Public Facilities Corporation

The Mauldin Public Facilities Corporation was created by the City in order to facilitate the issuance of Installment Purchase Revenue Bonds (IPRB) back in 2020. The MPFC operates with a board of directors that are appointed by Council and meet annually to elect officers. The board currently operates with three members, where these three individuals are neither City employees nor City elected officials. Each board member, or director, serves for three years.

City Council previously appointed the following individuals to serve as the Board of Directors for the MPFC:

Dianna Gracely
Rodney Neely
Cristina Ortiz

Staff has confirmed with each that they wish to continue serving in their capacity as board members for the MPFC.

Motion: Councilman Matney made a motion to send this resolution to Council with Councilwoman King seconding.

Vote: The vote was unanimous (3-0).

d. Approval of Financial Advisory Services Agreement

In June, staff issued a Request for Qualifications (RFQ) to solicit responses from qualified independent registered municipal financial advisory firms to serve as the City's financial advisor. The City received three responses. Upon reviewing each of the respondent's RFQ response, staff interviewed two respondents.

Staff recommends Council approve First Tryon Advisors as the City's Financial Advisor and authorize the City Administrator to take all action necessary to retain and engage their services.

Motion: Councilwoman King made a motion to send this item to Council with a recommendation of approval of First Tryon Advisors as our financial advisor. Councilman Matney seconded the motion.

Vote: The vote was unanimous (3-0).

7. Public Comment- None

8. Committee Concerns- None

9. Adjournment- Chairman Reynolds adjourned the meeting at 7:35 p.m.

Respectfully Submitted,
Cindy Miller
Municipal Clerk

MINUTES
FINANCE AND POLICY COMMITTEE WORKSHOP
JULY 1, 2024, AFTER COMMITTEE MEETINGS
CITY HALL – UPSTAIRS CONFERENCE ROOM

Members present were Chairman Michael Reynolds, Committee members Carol King and Taft Matney.

Others present were HR Director Mark Putnam and City Administrator Seth Duncan

1. Call to Order- 6:17 p.m.
2. Discussion on Employee Policy Manual- The committee discussed thoughts on the draft policy manual.
3. Adjournment- Chairman Reynolds adjourned the meeting at 7:21 p.m.

Respectfully Submitted,
Cindy Miller
Municipal Clerk

FINANCE & POLICY COMMITTEE

AGENDA ITEM

MEETING DATE: September 3, 2024

AGENDA ITEM: 6a

TO: Finance & Policy Committee

FROM: Seth Duncan, City Administrator

SUBJECT: Ordinance: Frontier Communications Franchise Agreement

REQUEST

Council is being asked to approve an Ordinance establishing a franchise agreement with Frontier Communications.

HISTORY/BACKGROUND

Frontier Communications is an existing fiber and telecommunications company operating in the City, region and state for more than 50 years. It was discovered recently during an encroachment permit request that the company did not have a franchise agreement with the City. The agreement as drafted is a standard franchise agreement that allows the company to install fiber connections within the City's right-of-ways and to operate in the City.

ANALYSIS or STAFF FINDINGS

Frontier is an existing provider of fiber and telecommunications services in the City. The company has some fiber installed, but is actively replacing overhead and underground copper with buried fiber. Frontier services are mostly south of E. Butler Road and west of HWY 276. The company has not provided any plans for installing beyond their existing footprint in the City.

The agreement presented will establish a franchise between the company and the City and apply our general franchise rules.

FINANCIAL IMPACT

As a condition of the franchise agreement, Frontier Communications will pay \$1,000 per year to the City for the privilege of operating in the City.

RECOMMENDATION

Staff recommends Council approval of the Ordinance.

ATTACHMENT(S)

- Ordinance approving the franchise agreement
- Frontier Franchise Agreement

AN ORDINANCE

ESTABLISHING A FRANCHISE AGREEMENT WITH FRONTIER COMMUNICATIONS

WHEREAS, Frontier Communications of the Carolinas, LLC, (“Franchisee”) seeks to enter into a Franchise Agreement with the City of Mauldin (the “City”) to allow Franchisee to install, operate, use, maintain, repair, replace, upgrade and remove a fiber-based telecommunications network and facilities in the City owned right-of-way; and,

WHEREAS, Franchisee is considered a telecommunications company pursuant to the definition under Section 58-9-2200 of the Code of Laws of South Carolina (“Code”); and,

WHEREAS, Franchisee holds a certificate of public convenience and necessity granted by the Public Service Commission of the State of South Carolina; and,

WHEREAS, the City is required by S.C. Code § 58-9-2230 and Section 153 (2) of Title 47 of the U.S. Code to manage its public rights-of-way on a competitively neutral and nondiscriminatory basis and is entitled to impose a fair and reasonable franchise or consent fee on a telecommunications company, or an administrative fee upon a telecommunications company that is not subject to the franchise or consent fee, for the use of the public streets and public property on a nondiscriminatory basis, to provide telecommunications services unless the telecommunications company has an existing contractual, constitutional, statutory, or other right to contract or operate in the public streets and public property, in amounts not to exceed the amounts specified in said Section 58-9-2230; and,

WHEREAS, the purpose of this franchise is to allow Franchisee the right to install, operate, use, maintain, upgrade, repair, replace and remove telecommunication services as contemplated by the Franchise Agreement attached hereto as **Exhibit “A;”** and,

WHEREAS, the City of Mauldin desires to enter into the Agreement attached hereto as **Exhibit “A”**, the terms of which are incorporated herein as is set forth verbatim; and,

WHEREAS, pursuant to S.C. Code § 5-7-260, the grant, renewal, or extension of a franchise shall be made by Ordinance; and,

WHEREAS, the Mayor and City Council find that it is in the best interests of the City of Mauldin to enter into the Agreement attached hereto as **Exhibit “A”**.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the City of Mauldin, that the Mayor is hereby authorized, empowered and directed to execute acknowledge and deliver the Franchise Agreement attached hereto as **Exhibit “A”**.

This Ordinance shall be effective upon second reading approval thereof and no further authorization is required to execute and deliver all documents related to Franchise Agreement contemplated by this Ordinance.

SIGNATURE OF MAYOR:

Terry Merritt

ATTEST:

Cindy Miller
City Clerk

APPROVED AS TO FORM:

Daniel Hughes
City Attorney

FIRST READING: _____, 2024
SECOND READING: _____, 2024

**CITY OF MAULDIN, SOUTH CAROLINA FRANCHISE
AGREEMENT WITH FRONTIER**

This Franchise Agreement (hereinafter "Agreement") is made and entered into as of this [__] day of [_____] 2024 ("Effective Date"), by and between the CITY OF MAULDIN, a South Carolina municipal corporation (hereinafter "City" or "Grantor") and Frontier Communications of the Carolinas LLC, a Delaware limited liability company and its Affiliates, (hereinafter "Frontier" or "GRANTEE"), having an office at 725 E Markham Ave., Durham NC 27701.

WHEREAS, GRANTEE is a limited liability company duly organized and existing under the laws of Delaware; and,

WHEREAS, GRANTEE desires to use and occupy the streets and public rights-of-way (as hereinafter defined) located within the City for the purposes of constructing, installing, and maintaining network facilities for telecommunications services within and through the City; and,

WHEREAS, the City maintains that, pursuant to Title V, Chapter 7, Section 30 of the South Carolina Code, and Title LVIII, Chapter 9, Section 2230 of the South Carolina Code, the City has the authority to grant franchises and other authorizations for the use and occupancy of the streets and public rights-of-way; and,

WHEREAS, Frontier holds a certificate of public convenience and necessity granted by the Public Service Commission of the State of South Carolina; and,

WHEREAS, the City is agreeable to allowing GRANTEE to use the streets and public rights-of-way, subject to the terms and conditions hereinafter set forth and subject to any lawful telecommunications regulatory ordinance that may be adopted by the City in the future; and

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the City and GRANTEE agree as follows:

Section 1. Grant of Authority. (a) Subject to the terms of this Agreement, the City hereby grants to GRANTEE the non-exclusive right to construct, install, maintain, locate, move, operate, place, protect, reconstruct, reinstall, relocate, remove, and replace fiber optic or other cable and related facilities for the provision of telecommunications service in the public streets and public rights-of-way in the City. GRANTEE shall be solely

responsible for obtaining any required consents from State agencies or private parties to the extent that its operations affect State or private property.

(b) GRANTEE acknowledges that this grant of authority is for the benefit of GRANTEE only, and that GRANTEE is not authorized to lease, sublease, assign or otherwise allow other non-affiliated providers to use or occupy the public rights-of-way except in accordance with provisions of this Agreement.

(c) GRANTEE acknowledges that, to the extent allowed by State and Federal law, the City has the authority to adopt ordinances regulating the use of the public rights-of-way, so long as such ordinances apply equally to all certificated providers of telecommunications services and are related to using the public streets and public rights-of-way in the City. GRANTEE agrees to be bound by all such future lawful ordinances so long as it operates telecommunication services or has property or equipment within the public streets or rights-of-way located in the City.

(d) This Agreement is not a grant by the City of any fee simple or other property interest except as expressly contemplated by this Agreement and is made subject and subordinate to the prior and continuing right of the City to use the public streets and public rights-of-way occupied by GRANTEE for the purpose of laying, installing, maintaining, repairing, protecting, replacing, and removing sanitary sewers, water mains, storm drains, gas mains, poles and other equipment for municipal uses and with the right of ingress and egress, along, above, over, across and in said public streets and public rights-of-way.

(e) This Agreement shall be in full force and effect from and after the date of its approval by the City Council governing body; provided, however, that notwithstanding such approval, this Agreement shall not become effective until all required bonds, certificates of insurance and other instruments required by this Agreement have been filed with, and accepted and approved by the City, which acceptance and approval shall not be unreasonably delayed, conditioned, or withheld.

Section 2. Definitions. For the purpose of this Agreement, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

"Affiliate" means a person or entity that directly, or indirectly, through one or more intermediaries, owns, manages, controls, is owned or controlled by, or is under common ownership, management or control with another person or entity.

"*Cable service*" shall have the same meaning as in the 47 U.S. Code § 522 and shall be synonymous with the term "cable television service."

"*City*" means the City of Mauldin, South Carolina, and where appropriate to the context, its officers, agents, employees, and volunteers.

"*City Attorney*" means the City Attorney or his designee.

"*City Council*" means the City Council of the City of Mauldin.

"*City Engineer*" means the City Engineer or his designee.

"*City Administrator*" means the City Administrator or his designee.

"*City Property*" means and includes all real property owned by the City, including all property held in a proprietary capacity by the City.

"*Conduit*" means any materials, such as metal or plastic pipe, that protects wire, cable, lines, fiber optic cable, or other technology for the provision of telecommunications service.

"*Duct*" means a pipe, tube, channel, or similar item for carrying wires, lines, cables, fiber optic cable, or other technology for the provision of telecommunications service.

"*Fiber facilities*" means fiber optic cables and fiber-related facilities, conduits, converters, splice boxes, handholds, manholes, vaults, equipment, drains, surface location markers, appurtenances and related facilities placed or located by GRANTEE in the public streets or rights-of-way of the City after the Effective Date of this Agreement.

"*GRANTEE*" or "*Frontier*" means Frontier Communications of the Carolinas LLC.

"*Grantor*" means the City of Mauldin.

"*Public streets and public rights-of-way*" or "*public ways*" include the surface of, and the space above and below, any public street, road, highway, avenue, sidewalk, way, bridge, viaduct, alley or other public right-of-way, including unimproved surfaces, now or hereafter held by the City for the purpose of public travel, communications, alarm,

street lighting, power distribution, water or sewer service or other public use, whether present or future, to the extent of the City's right, title, interest or authority to grant a franchise to occupy and use such streets and easements for the purpose of providing telecommunications services.

“Public works project or public improvements” include, without limitation, the construction, realignment, paving or repaving, or other work on any public street or public right-of-way, change of grade or alignment of any public street or public right-of-way, the construction or reconstruction of any water, sanitary sewer, storm sewer, force main, drainage or communications facility of the City.

“Telecommunications facilities” means the plant, equipment, and property, including, but not limited to, the poles, pipes, mains, conduits, ducts, fiber optic and other cables, circuits, and wires, and any other equipment and property used to provide telecommunications service.

“Telecommunications service” means the providing or offering for rent, sale, or lease, or in exchange for other value received, the transmittal of signals, including but not limited to, voice, data, internet, image, graphic or video or other programming information, except cable television service, between or among points by wire, lines, cable, fiber optics, circuits, laser or infrared, microwave, radio, satellite, or other telecommunications facilities, but not including cable television service.

Section 3. Term of Agreement. The term of this Agreement shall be for an initial term of ten (10) years, commencing on the Effective Date (“Initial Term”). Unless either party gives ninety (90) days written notice of its intention to terminate the Agreement prior to the end of the Initial Term, the Agreement shall thereafter automatically renew for up to three (3) additional ten (10) year terms, for a maximum of forty (40) years (each a “Renewal Term”); however, such renewal shall not automatically occur if a material, uncured breach has not been remedied prior to the expiration of applicable notice and cure periods and the non-breaching party provides ninety (90) days’ written notice prior to the end of a Renewal Term. Upon termination of this Agreement as herein provided, and unless the parties are in active good faith negotiation of a replacement agreement or otherwise agree in writing to an extension, GRANTEE shall be prohibited from further access to the public rights-of-way in the City.

Section 4. Compliance With Applicable Law. GRANTEE shall at all times during the term of this Agreement, including any renewal period, comply with all applicable federal, state, and local laws, ordinances, and regulations. Expressly reserved

to the City is the right to adopt, in addition to the provisions of this Agreement and existing laws, such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public.

Section 5. Construction; Location or Relocation of Facilities. All GRANTEE Fiber facilities shall be constructed, installed, and located according to the terms and conditions contained herein, unless otherwise specified by the City.

5.1. Grantee shall place Fiber facilities underground when commercially and technologically reasonable and subject to the rights and obligations set forth in Sections 5.8 and 5.9 below. Commercially reasonable means, with respect to any action required to be made, attempted or taken by GRANTEE under this Section 5.1, the level of effort in light of the facts known to GRANTEE at the time a decision is made that: (a) can reasonably be expected to accomplish the desired action without a material increase in costs incurred by GRANTEE; (b) is consistent with industry practices; and (c) takes into consideration the amount of advance notice required to take such action, the duration and type of action, and the competitive environment in which such action occurs.

5.2 Whenever all existing electric utilities, cable facilities or telecommunications facilities are located underground within a particular segment of a street or public right-of-way of the City, GRANTEE shall also install its Fiber facilities underground.

5.3. Whenever existing overhead electric utilities, cable facilities or telecommunications facilities are relocated underground within a particular segment of a street or public right-of-way of the City, GRANTEE shall relocate its Fiber facilities underground within a reasonable amount of time after notification by the City that such facilities must be relocated. Absent extraordinary circumstances or undue hardship as reasonably determined by the City, such relocation shall be made concurrently to minimize the disruption of the public streets or public rights-of-way.

5.4. GRANTEE shall obtain all required permits for the construction or installation of its Fiber facilities as required in this Agreement, provided, however, that nothing in this Agreement shall prohibit the City and GRANTEE from agreeing to an alternative plan to review permit and construction procedures, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

5.5. In the performance and exercise of its rights and obligations under this Agreement, GRANTEE shall not interfere in any manner with the existence and operation of any public street and public or private right-of-way, sanitary sewer, water line, storm drain

gas main, pole, overhead or underground electric and telephone wires, television cables, public works, facilities of other telecommunication providers, whose installations predate those of GRANTEE, or City Property, without the prior approval of the City.

5.6. Except as may be expressly provided herein, nothing in this Agreement shall be construed to abrogate or limit the right of the City to perform any public works or public improvements. If any Fiber facilities of GRANTEE interfere with the construction, operation, maintenance, repair or removal of such public works or public improvements, within ninety (90) days after receipt of written notice from the City (or such other period of time set forth in Section 5.7 or as may be agreed upon in writing by the City and GRANTEE), GRANTEE shall, at its own expense protect, alter, remove or relocate facilities, as directed by the City Administrator or City Engineer. If GRANTEE fails to so protect, alter, remove, or relocate equipment within such period, the City may break through, remove, alter, or relocate the facilities of GRANTEE without any liability to City, and GRANTEE shall pay to the City the actual, reasonable costs incurred in connection with such breaking through, removal, alteration, or relocation. GRANTEE shall also reimburse the City for or bear any additional actual, reasonable cost actually incurred by the City as a result of GRANTEE's failure to comply with the City's request to protect, alter or remove equipment under this Agreement. The City may collect such costs, and any reasonable expenses and reasonable attorney fees incurred in collecting such costs, as debts owed to the City, by bringing action in any court of competent jurisdiction or exercising the City's rights to draw on bonds or in any other lawful manner, individually or in combination.

5.7. The City retains the right and privilege to cut or move any Fiber facilities located within the public ways or other areas of the City as the City may reasonably determine to be necessary, appropriate, or useful in response to any life-threatening emergency. The City will endeavor to provide prior notice to GRANTEE of such emergencies which may impact its Fiber facilities. If City is unable to provide prior notice of the life-threatening emergency as described above, City shall notify GRANTEE within twenty-four (24) hours of the occurrence of such emergency.

5.8. The Fiber facilities of GRANTEE shall be located so as not to interfere with public safety or, to the extent possible, with the convenience of persons using the public streets or rights-of-way. GRANTEE shall construct, maintain, and locate its Fiber facilities system so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal, and fiber optic facilities of the City.

5.9. The City shall have the right to specifically designate the location of the Fiber facilities of GRANTEE with reference to sewer and water mains, drainage facilities,

fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, cable television facilities, and railway, communication, and power lines, in such a manner as to protect the public safety and public and private property. Failure by the City to designate the location of GRANTEE's facilities shall not relieve GRANTEE of its responsibilities in matters of public safety, as provided in this Agreement.

5.10. Except in the cases of emergencies, GRANTEE shall not move, alter, change, or extend any of its Fiber facilities in any public street or public right-of-way unless prior written notice of its intention to do so is given to the City Administrator and permission in writing to do so is granted, or such requirement is waived, by the City Administrator. The City Administrator shall either approve or deny GRANTEE's request to relocate its facilities within five (5) days of receipt of GRANTEE's request. Such permission shall not be unreasonably withheld by the City Administrator and shall be conditioned upon compliance with the terms and conditions of this Agreement, and as will prevent undue interference with or obstruction of the use of the public ways by the public, the City or by any other public utility, public service corporation or cable operator for their respective purposes and functions. Such work by GRANTEE shall also be coordinated with the City's annual paving program through the Office of the City Engineer.

5.11. GRANTEE shall not open, disturb or obstruct, at any time, any more of the public streets or public rights-of-way than is reasonably necessary to enable it to proceed in laying or repairing its telecommunications system. GRANTEE shall not permit any public street or public right-of-way so opened, disturbed, or obstructed by it to remain open, disturbed, or obstructed for a longer period of time than shall be reasonably necessary. In all cases where any public street or public right-of-way is excavated, disturbed, or obstructed by GRANTEE, GRANTEE shall take all precautions necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals, and other devices necessary or proper to adequately give notice, protection, and warning to, the public of the existence of all actual conditions present.

5.12. After the installation, removal, relocation, construction, or maintenance of the Fiber facilities is completed, GRANTEE shall, at its own cost, repair and return the public streets or public rights-of-way to the same or similar condition existing before such installation, removal, relocation, construction, or maintenance, in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City. GRANTEE shall be responsible for damage to City street pavements, existing utilities,

curbs, gutters, and sidewalks due to GRANTEE's installation, construction, maintenance, repair, or removal of its telecommunications facilities in the public streets, public rights-of-way, and shall repair, replace, and restore in kind, the said damaged property at its sole expense. Upon failure of GRANTEE to repair, replace and restore said damaged property, in a manner as may be reasonably specified by the City and to the reasonable satisfaction of the City, after sixty (60) days' notice in writing shall have been given by the City, the City may cause such necessary repairs to be made and may collect the actual, reasonable costs incurred from GRANTEE, including but not limited to, exercising the City's rights to draw on bonds. The City may collect such costs, and any reasonable expenses and attorney fees incurred in collecting such costs, as debts owed to the City, by bringing an action in any court of competent jurisdiction or in any manner allowed by law.

5.13. Neither GRANTEE, nor any person acting on GRANTEE's behalf, shall take any action or permit any action to be done which may impair or damage any City Property more than is reasonably necessary to enable it to install or repair its Fiber facilities, including, but not limited to, any public street, public right-of-way or other property located in, on or adjacent thereto.

5.14. In the event of an unexpected repair or emergency, GRANTEE may commence such repair and emergency response work as required under the circumstances, provided GRANTEE shall notify the City as promptly as possible, before such repair or emergency work is started or as soon thereafter as possible if advance notice is not practicable.

5.15. GRANTEE shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements, laws, ordinances, and regulations.

5.16. GRANTEE shall at all times employ a high standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries, or nuisances to the public.

5.17. GRANTEE shall obtain all required permits from the City and any other governmental entity having jurisdiction prior to commencing work of any nature related to its Fiber facilities and shall comply with all terms and conditions of any such permit. GRANTEE shall furnish detailed plans of the work and other required information prior to issuance of a permit. GRANTEE shall comply with all applicable ordinances and permitting requirements.

A single permit may be issued for multiple excavations to be made in public streets and rights-of-way. Exceptions to the requirement for a written permit may be allowed in cases of emergencies involving public safety or restoration of service. In the case of emergency excavations made in a public street or public right-of-way without a permit, GRANTEE shall make a report of each such excavation to the City within two (2) working days. Any permit application and inspection related to repair of excavations shall be promptly acted upon by the City so as not to unreasonably delay GRANTEE in efficiently discharging its public service obligation and in any event shall be granted or denied within thirty (30) days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

5.18. (a) Promptly after installation, repair or extension of the Fiber facilities or any portion thereof or any pavement cut by GRANTEE in any public way of the City, the incidental trenches or excavations shall be refilled by GRANTEE in a manner reasonably acceptable to the City Administrator. Pavement, sidewalks, curbs, gutters or any other portions of public ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to their former condition by GRANTEE at its own expense; however, where it is necessary, and if authorized by the City, in order to achieve the former conditions, GRANTEE shall use materials whose type, specification and quantities exceed or are different from those used in the installation, then GRANTEE at its own expense shall provide such different materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, GRANTEE shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the City Engineer and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring or as determined by the City Engineer. GRANTEE shall maintain, repair, and keep in good condition for a period of one (1) year following such disturbance all portions of public ways disturbed by GRANTEE, provided such maintenance and repair shall be necessary because of defective workmanship or materials supplied by GRANTEE.

(b) All trees, landscaping and grounds removed, damaged, or disturbed as a result of the construction, installation maintenance, repair or replacement of Fiber facilities shall be replaced or restored, as nearly as may be practicable, to the condition existing prior to performance of work. All restoration work within the public ways or other areas shall be done in accordance with landscape plans approved by the City, which approval shall not be unreasonably withheld, delayed or conditioned.

5.19. (a) GRANTEE shall promptly remove or correct any obstruction, damage, or defect in any public street or public right-of-way caused by GRANTEE in the installation, operation, maintenance, or extension of GRANTEE's Fiber facilities. Any such obstruction, damage, or defect which is not promptly removed, repaired, or corrected by GRANTEE after sixty (60) days' written notice to do so, given by the City to GRANTEE, may be removed or corrected by the City, and the actual, reasonable cost thereof shall be charged against GRANTEE and payable on demand. Any expense, cost, or damages incurred for repair, relocation, or replacement to City water, sanitary sewer, storm sewer, storm drainage, telecommunication facilities or other property resulting from construction or maintenance of GRANTEE Fiber facilities shall be borne by GRANTEE and any and all actual, reasonable expense and cost incurred in connection therewith by the City shall be fully reimbursed by GRANTEE to the City.

(b) If weather or other conditions do not permit the complete restoration required by this Section, GRANTEE shall temporarily restore the affected property. Such temporary restoration shall be at GRANTEE's sole expense and GRANTEE shall only be required to make reasonable, temporary restorations based on the conditions. GRANTEE shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(c) GRANTEE or other person acting on its behalf shall use suitable barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including, but not limited to, the flagging requirements of the South Carolina Department of Transportation.

5.20. Except in the case of the City's, its officers', agents' or employees' negligence or intentional or willful misconduct, the City, its officers, agents, or employees, shall not be liable for any damage to or loss of any of GRANTEE's Fiber facilities within the public ways or any other areas of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of the City.

5.21. GRANTEE shall cooperate with the City in coordinating its construction activities as follows:

(a) GRANTEE shall provide the City with a schedule of its proposed

construction activities prior to commencing any expansion of its backbone system;

(b) Upon at least thirty (30) days' prior written request, GRANTEE shall meet with the City and other users of the public ways to coordinate construction in the public ways; and

(c) All construction locations, activities and schedules shall be coordinated, as directed by the City Engineer, to minimize public inconvenience, disruption, or damages. GRANTEE shall submit a written construction schedule to the City Engineer at least ten (10) working days before commencing any work in or about the public streets or public rights-of-way. GRANTEE shall further notify the City Engineer not less than five (5) working days in advance of such excavation or work and shall comply with the provisions of the South Carolina Underground Facility Damage Prevention Act, South Carolina Title 58, Chapter 36.

Section 6. Mapping. (a) GRANTEE shall maintain an accurate map of its telecommunications facilities in the City. GRANTEE shall provide the City with "as built" drawings and an accurate map or maps showing the location of its facilities, including pole lines and conduit lines and any other facilities requested by the City, to include a digitized map(s) in both printed and electronic form. GRANTEE shall, upon request, provide updated maps annually of telecommunications facilities in the City.

(b) If any of the requested information of GRANTEE in this Agreement is considered proprietary, confidential, or a trade secret, GRANTEE will notify the City of this opinion and the City will keep such information confidential to the extent permitted by the South Carolina Freedom of Information Act (South Carolina Code Title 30 Chapter 4) or other any successor statute or law. As for new installations, after the Effective Date of this franchise, GRANTEE shall submit the proposed Mapping of its plans for new construction to the City prior to any construction. As-built drawings of any new construction of facilities shall be furnished to the City within sixty (60) days of completion of such construction. All as-built maps and drawings shall be drawn to scale and reference to a physical City benchmark to the extent the physical benchmark is in reasonable proximity to GRANTEE new installation. All mapping shall be provided in a format compatible to the City's present and future mapping systems. Alternatively, GRANTEE will pay for the cost of making the mapping compatible.

(c) Prior to its installation of any Fiber facilities in the public streets or public rights-of-way and after GRANTEE provides the City with its proposed plans for the Fiber facilities, the City may in its reasonable discretion designate certain locations to be excluded

from use by GRANTEE for its Fiber facilities, including, but not limited to, ornamental or similar specially designed streets lights or other facilities or locations which, in the reasonable judgment of the City Engineer, do not have electrical service adequate for or appropriate for GRANTEE's Fiber facilities or cannot safely bear the weight or wind loading thereof, or any other facility or location that in the reasonable judgment of the City Engineer is incompatible with the proposed Fiber facilities or would be rendered unsafe or unstable by the installation. The City Engineer may further exclude certain other facilities that have been designated or planned for other use or are not otherwise proprietary, legal, or other limitations or restrictions as may be reasonably determined by the City. In the event such exclusions conflict with reasonable requirements of GRANTEE, the City will cooperate in good faith with GRANTEE to attempt to find suitable alternatives, if available, provided that the City shall not be required to incur financial costs nor require the City to acquire new locations for GRANTEE. GRANTEE shall, prior to any excavation or installation within the public streets or public rights-of-way, provide sufficient notification and joint installation opportunity on a shared cost basis to potential users of the public streets or public rights-of-way as may be provided for by a separate City policy. Such notification and adopted policies shall be designed to maximize co-location of providers to minimize the disturbance to the public streets or public rights-of-way and maximize its useable capacity.

Section 7. Insurance Requirements. At all times during the term of this Agreement and any renewal period, GRANTEE shall, at its expense, maintain the following insurance policies. Any required insurance shall be in a form and with an insurance company authorized to do business in South Carolina and have a rating of no less than A⁻ VII by A.M. Best Co.

(a) *Commercial General Liability.* Commercial General Liability insurance coverage insuring against claims, loss, cost, damage, expense, or liability from loss of life or damage or injury to persons or property arising out of the work or activity under or by virtue of this Agreement, and contractual liability (subject to the terms and conditions of the policy). The limit of liability for such coverage shall be Two Million Dollars (\$2,000,000) combined single limit for any one occurrence. However, the parties acknowledge that GRANTEE may meet the policy limit in this section by combination of GRANTEE's General Commercial Liability Policy and GRANTEE's Umbrella or Excess Liability Policy.

(b) *Workers' Compensation and Employer's Liability.* Workers' Compensation insurance covering GRANTEE's statutory obligation under the laws of South Carolina and Employer's Liability insurance for all its employees engaged in work under this

Agreement.

(c) *Automobile Liability.* Automobile Liability insurance having limits of liability of One Million Dollars (\$1,000,000) combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Agreement.

(d) *Umbrella/Excess Liability Coverage.* The insurance coverages and amounts set forth in this Section may be met by an umbrella or excess liability policy providing limits in excess of the underlying primary liability coverages in an amount of Five Million Dollars (\$5,000,000) for any one occurrence/claim.

(e) Prior to commencing construction pursuant to this Agreement or within ten (10) days after the granting of the franchise contemplated by this Agreement, whichever is sooner, GRANTEE shall provide the City with a certificate or certificates of insurance, showing the type, amount, effective dates, and date of expiration of the policies, and thereafter following the renewal of any such policy. Such certificate or certificates and evidence of insurance shall include the City, its officers, agents, and employees as additional insureds on the liability policies in items a., c., and d. above. GRANTEE or its insurer shall provide the City with thirty (30) days' prior written notice of cancellation of any such required insurance if any of the required coverages are not replaced.

Section 8. Surety.

(a) Within sixty (60) days after the Effective Date of this Agreement, GRANTEE shall furnish and file with the City a bond, in a form and by a surety authorized to do business in South Carolina, in the amount of Fifty Thousand Dollars (\$50,000) securing its faithful performance of the terms and conditions of this Agreement. GRANTEE shall maintain such bond (utilizing an annual bond form) for the duration of this Agreement, unless otherwise agreed to in writing by the City. Failure to maintain the bond shall be deemed a material default by GRANTEE of this Agreement.

The bond shall guarantee GRANTEE's faithful performance of the terms and conditions of this Agreement, including, but not limited to: (1) the timely completion of construction; (2) compliance with applicable plans, permits, technical codes and standards; (3) proper location of the facilities as specified by the City; (4) restoration of the public ways and other property affected by the construction as required by this Agreement; (5) the submission of "as-built" drawings after completion of the work as required by this Agreement; (6) timely payment and satisfaction of all claims,

demands or liens for labor, material or services provided in connection with the work; and (7) the payment by GRANTEE of all lawful liens, taxes, damages, claims, costs or expenses which the City has been compelled to pay or has incurred by reason of any act or default of GRANTEE under this Agreement and all other payments due the City from GRANTEE pursuant to this Agreement.

(b) Whenever the City determines that GRANTEE has violated one (1) or more terms, conditions, or provisions of this Agreement for which relief is available against the bond, a written notice shall be given to GRANTEE. The written notice shall describe in reasonable detail the violation so as to afford GRANTEE an opportunity to remedy the violation. GRANTEE shall have sixty (60) days subsequent to receipt of the notice in which to correct the violation before the City may make demand upon the bond. Failure to maintain the bond shall be a martial default under this Agreement.

(c) Such bond shall be in addition to any performance, defect bond, or other surety required by the City in connection with the issuance of any construction or any successor ordinance.

Section 9. Indemnification. GRANTEE agrees to indemnify, defend and hold harmless the City, its officers, employees and agents from and against all claims, demands, losses, damages, liabilities, fines, and penalties, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney's fees and costs of defense (collectively, the losses), arising out of any breach by GRANTEE of the terms and conditions of this Agreement, except to the extent proximately caused by the negligence or willful misconduct of the City, its officers, employees and agents. In addition, GRANTEE shall protect, indemnify, and hold harmless the City, its officers, agents, and employees, from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other apparatus that may be used in the performance of any work or activity arising out of the use of any Telecommunication facilities or the provision of Telecommunication service, except to the extent proximately caused by the negligence or willful misconduct of the City, its officers, employees or agents.

The City is a governmental entity and political subdivision of the State of South Carolina and enjoys sovereign immunity, as well as the imposition of duties and protections afforded by the South Carolina Tort Claims Act. Although the City cannot, by law, hold harmless and indemnify any contracting party, subject to the application of the aforementioned laws and to the limits of its insurance, the City agrees that GRANTEE shall not be liable from and against all claims, liabilities, penalties, fines, costs, damages, losses,

causes of action, suits, demands, judgements and expenses (including, court costs and attorney's fees) of any nature, kind or description of any acts of negligence by the City, or its employees and agents, related to the City's breach of the terms and conditions of this Agreement.

Section 10. Hazardous Substances. In its performance of this Agreement, GRANTEE shall not transport, dispose of, or release any hazardous substance, material, or waste, except as necessary in performance of its work under this Agreement, and in any event GRANTEE shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances, or waste. Regardless of the City's acquiescence, GRANTEE shall indemnify and hold the City, its officers, agents, employees, and volunteers harmless from all costs, claims, damages, causes of action, liabilities, fines, or penalties, including reasonable attorney's fees, resulting from GRANTEE's violation of this section and agrees to reimburse City for all actual, reasonable costs and expenses incurred by the City in eliminating or remedying such violations. GRANTEE also agrees to reimburse the City and hold the City, its officers, agents, employees, and volunteers harmless from any and all actual, reasonable costs, expenses, attorney's fees and all penalties or civil judgments obtained against any of them as a result of GRANTEE's use or release of any hazardous substance or waste onto the ground, or into the water or air from, near or upon the City's premises. For purposes of this Section, the following definitions shall apply:

"Hazardous Substances" means asbestos and any and all pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials and hazardous substances as referenced or defined in, or pursuant to, any federal, state, local or other applicable environmental law, statute, ordinance, rule, order, regulation or standard in effect on the date hereof including, without limitation, the Resource Conservation and Recovery Act (42 U.S.C 6901, *et seq.*), as amended, the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136, *et seq.*), as amended, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, *et seq.*), as amended, and the Toxic Substances Control Act (15 U.S.C. 2601, *et seq.*), as amended.

As used in this Section, "release" includes the placing, releasing, depositing, spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping of any substance.

Section 11. Fees

(a) In consideration of the grant of authority to utilize the streets and public places of the City for the provision of Telecommunications Service, and in accordance with Applicable Law and ordinances, GRANTEE shall pay such franchise fees, business license taxes, and administrative fees as are presently permitted by Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, as enacted in 1999, and as may be enacted and imposed by the City. GRANTEE shall also pay all such ad valorem taxes, service fees, sales taxes, or other taxes and fees as may now or hereafter be lawfully imposed on other businesses within the City. Provided, however, that in the event that Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, as enacted in 1999, or other laws governing franchise fees, business license taxes and/or other fees with respect to Telecommunications Service shall be substantially modified by subsequent legislation or court decision, the provisions herein contained shall be brought into conformity with the changes in the Applicable Law by appropriate amendment to this ordinance. If the limitations on the amount of franchise fees, administrative fees, and business license taxes on Telecommunications Service providers presently contained in said statute shall be removed or modified, the City will be free, by amendment to this ordinance, to impose such fair, reasonable, competitively neutral, and non-discriminatory fees and taxes as may then be permitted by that statute or by such Applicable Law as may then govern; GRANTEE will be free to challenge any fee structure not in compliance with Applicable Law.

(b) For the use of the Right of Way, as defined by S.C. Code Section 58-9-2230, to provide Telecommunications Service, GRANTEE shall pay to the City a franchise fee in the amount of \$1,000.00 per annum which fee is in lieu of any permit fee, encroachment fee, degradation fee, or other fee assessed on a Telecommunications Service provider for use of the Right of Way to the extent required by S.C. Code Section 58-9-2230. The initial franchise fee shall be paid to City on or before the Effective Date, and thereafter on January 2 of each calendar year this Agreement remains in effect.

(c) Interest will be charged on any late payment at the maximum rate permitted under state law, or if there is no such rate, the interest will be 1.5% per month a payment is late.

Section 12. General provisions.

(a) *Authority.* GRANTEE warrants and represents that it has obtained all necessary and appropriate authority and approval from all applicable federal and state agencies or authorities to provide all telecommunications facilities and services it intends to provide within the City, and upon request by the City will provide evidence of such authority.

(b) *Other remedies.* Nothing in this Agreement shall be construed as waiving or limiting any rights or remedies that the City or GRANTEE may have, at law or in equity, for enforcement of this Agreement.

(c) *Severability.* If any section, subsection, sentence, clause, phrase, or other portion of this Agreement, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

(d) *Nonenforcement.* Neither party shall be excused from complying with any of the provisions of this Agreement by any failure of the other party, upon any one or more occasions, to insist upon strict performance of this Agreement or to seek the other party's compliance with any one or more of such terms or conditions of this Agreement.

(e) *Conflicts of law.* If there is a conflict between the provisions of this Agreement and any law, whether federal, state, or City, including all future laws and ordinances, the law and conflicting Agreement provision will, to the extent reasonably possible, be construed so as to be consistent with each other and if such construction is not reasonably possible, the conflicting provision of this Agreement shall be deemed superseded by such law and have no effect, notwithstanding the contract clause of the United States Constitution.

(f) *Controlling law and venue.* By virtue of entering into this Agreement, GRANTEE agrees and submits itself to a court of competent jurisdiction in the City, South Carolina or in the United States District Court for the District of South Carolina, and further agrees that this Agreement is controlled by the laws of South Carolina or any applicable federal laws and that all claims, disputes and other matters shall be decided only by such court according to the laws of South Carolina or any applicable federal laws or by any regulatory body with jurisdiction, including the Federal Communications Commission.

(g) *Captions.* The section captions and headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(h) *Nondiscrimination.* During the performance of this Agreement, GRANTEE agrees that it will not discriminate against any employee or applicant for employment on the basis of race, religion, color, sex, handicap, or national origin. GRANTEE agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. GRANTEE, in all solicitations or advertisements for employees placed by or on behalf of GRANTEE, will state that GRANTEE is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements herein.

(i) *Notices.* (a) Notices given pursuant to this Agreement shall be in writing and addressed as follows:

To the City: City Administrator
5 E. Butler Road
Mauldin, SC 29662

With a Copy to: Daniel R. Hughes, City Attorney
P.O. Box 249
Mauldin, SC 29662

To GRANTEE:
Frontier Communications
ATTN: Centralized Joint Use Team
8001 W Jefferson Blvd
Ft Wayne, IN 46804 725 E Markham Ave. Durham, NC

27701

With a Copy to:
Frontier Communications 1500 MacCorkle Ave., S.E.
Room 500
Charleston WV 25396
Attn: Legal Department

Either party may change the address at which it will receive notices by providing at least thirty (30) days' prior written notice of the change to the other party.

(j) *Assignment.* GRANTEE may assign or transfer this Agreement or any interest therein with the City's written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, this Agreement may be assigned by GRANTEE without City's written consent to an Affiliate or any entity that purchases substantially all of the assets or ownership interests of the GRANTEE; any entity that results from a merger, consolidation, or restructuring of the GRANTEE; or, any entity that assumes control of the GRANTEE. Upon such assignment by GRANTEE, the successor entity assuming the Agreement shall execute a written document that the successor entity shall fully perform the obligations of GRANTEE under this Agreement and shall be entitled to all of []'s rights herein ("Assignment and Assumption Agreement"). GRANTEE shall provide City with a copy of the executed Assignment and Assumption Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

FRONTIER

By: _____

Name: David Woods

Title: Senior Vice President

State of _____
City/County of _____,

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by David Woods, on behalf of Frontier.

Notary Public

My commission expires: _____

My registration number: _____

CITY OF MAULDIN
a South Carolina municipal corporation

By: _____
Mayor

(SEAL)

ATTEST: _____
_____, City Clerk

STATE OF SOUTH CAROLINA
CITY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____, Mayor of the City of Mauldin, on its behalf. He is personally known to me.

Notary Public

My commission expires: _____
My registration number: _____

Approved as to Content:

City Administrator

Approved as to Legal Sufficiency:

City Attorney's Office

FINANCE AND POLICY COMMITTEE

AGENDA ITEM SUMMARY

MEETING DATE: September 3, 2024

AGENDA ITEM: 6b

TO: Finance and Policy Committee
FROM: Seth Duncan, City Administrator
SUBJECT: FY2024 Surplus Projection Plan

REQUEST

To provide a preliminary estimate to Council of the FY2024 Surplus Projection and staff recommended expenditure plan.

HISTORY/BACKGROUND

Annually, the City's Finance Director prepares a preliminary report of anticipated final revenues and expenditures for the prior fiscal year. This report, in addition to highlighting capital expenditures of the prior year, also includes a recommended allocation of surplus revenues. The City's Finance Director, Holly Abercrombie, transmitted a memo recently to Council summarizing the fiscal year end and an allocation plan for surplus revenues for review and consideration. Similar to last year, staff is requesting Council approve the proposed allocation plan.

STAFF RECOMMENDATION

The Finance Director is projecting a surplus between \$3.4 million and \$3.6 million for FY 2024. Staff is proposing the following allocation plan for surplus FY2024 funds.

\$ 500,000	General Fund fund balance.
\$1,000,000	Capital Projects Fund for future projects or equipment and to fund capital lease principal and interest payments.
\$1,500,000	Capital Projects Transportation Fund for streetscaping, sidewalks, trails, and other transportation related improvements.

RECOMMENDATION

Staff recommends Council approve FY2024 Surplus Projection Plan as drafted by staff.

ATTACHMENT(S)

- Year End Fiscal Summary

Council Memorandum

To: City Council
From: Finance Director, Holly Abercrombie
Date: July 31, 2024
Subject: Year End Financial Summary

Fiscal & Budgetary Activities

A. FY2024 End of the Year Budget Summary

The City's Fiscal Year (FY) 2024 budget totaled \$49,003,829, which includes the additional \$4,484,601 of FY2023 encumbrances and the additional \$6,419,465 Council budgeted via a budget amendment for FY2024 during its June 17, 2024 meeting. After a preliminary fiscal analysis performed by the finance staff, the City is projected to closeout FY2024 with an estimated General Fund surplus ranging from \$3.4M to \$3.6M. As of the date of this memorandum, FY2024 revenues are still being received and all the FY2024 expenditures have not yet been recorded. The amount of General Fund surplus will be further refined during the audit for FY2024, which upon completion will provide the final amount. Contributing to the surplus are the following factors:

- Property Taxes coming in stronger than projected – \$1,213,843
- Business Licenses(City and MASC) and Franchise Fees coming in \$714,622 over projections
- Permits coming in \$534,258 over projections

Staff recommends the following uses for the projected addition to fund balance:

- \$500,000 added to General Fund fund balance
- \$1,000,000 transferred to Capital Projects fund for future projects or equipment and to fund capital lease principal and interest payments
- \$1,500,000 transferred to Capital Projects Transportation for streetscaping, sidewalks, trails, and other transportation related improvements.

B. Transportation Fund

The transportation fund which Council approved allocating 2 mills each budget year, continues to serve the City well. This program is dedicated to enhancing the City's infrastructure and to include but not limited to: developing and maintaining an

inventory of City roads, sidewalks, and Right-of-way; paving and repairing City roads; and exploring, improving, and constructing sidewalks, trails, and multi-use paths along City owned streets. During FY2024, the 2 mills approved by Council via the budget amounted to \$280,974. Additional paving revenue realized this fiscal year was \$108,927 from other sources. These funds are primarily used as a match for Greenville Legislative Delegation Transportation Committee's (GLDTC) road paving program. The City expended \$235,653 towards repaving initiatives this past year.

Capital-Transportation fund projected ending fund balance:

The ending fund balance is projected to be approximately \$800,000. Included in this balance is \$40,000 for future needs for the pedestrian bridge and the rest is allotted for road paving, sidewalks, etc.

C. Capital Improvement Program

City Council approved a total of \$4,791,351 to the Capital Improvement Program, which includes the addition of FY23 encumbrances the budget amendment amounts for FY2024. All of the FY2024 capital expenditures have not been recorded at this time due to a number of the capital projects crossing fiscal years (encumbered) and are ongoing. Noteworthy capital projects that were completed during FY2022 are presented below.

The City purchased two new Administration Vehicles – one Honda Accord and one Honda CRV. These vehicles are used as part of a motor pool program at City Hall. The new vehicles replaced outdated vehicles that had reached end of life.



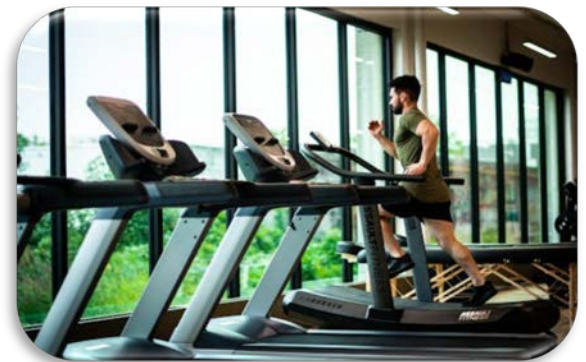
The City concluded the original 3-year plan of the police fleet replacement plan. We purchased 18 of the 56 total this year. The total of all the cars and upfit equaled \$883,615. The Police Department also replaced various radios for approximately \$231,182.



City Council also approved additional sidearm trucks for the sanitation program in the FY2024 budget. These apparatuses were purchased for \$806,760. The vehicles consisting of three side loaders are currently in service.



The City's Recreation Department replaced most of the fitness equipment at the Sports Center for approximately \$154,079. The equipment has been installed and is operational.



Other items were purchased throughout the year as well and these items are briefly highlighted below;

Public Safety

Mauldin Fire Department purchased extrication equipment for approximately \$100,479. All new turn out gear was purchased as well for \$179,511 to outfit all firefighters. Technology at HQ building was installed and upgraded. A new cascade system was ordered for \$86,767. Two new Rescue vehicles have been bought for approximately \$90,000. These new vehicles will increase the department's ability to respond to medical calls with more versatile equipment.

Public Works

Public works purchased a bagging riding mower in Parks to keep the fleet up to date and they also purchased a new Landscape truck.

The Street department purchased a new asphalt roller.

Business Development Services

Updated and upfitted the facilities in City Hall to better utilize the space available. Included with these improvements are a new conference room, an additional office space, and new furniture. The project came in at budget.

City Center Projects

Maverick yards project \$1,795,247 and Mauldin street scape project had \$339,919 spent this year. The project continues to move forward with the installation of road improvements, a railroad crossing, and other infrastructure improvements.

Projects/Items crossing fiscal years:

City Center projects are ongoing and \$3,378,347 of fund balance is restricted for this use. Staff anticipates the majority of the streetscaping project, utility relocation, and remaining road improvements to be completed in the next fiscal year.

Capital Projects fund projected ending fund balance:

Staff is projecting the ending fund balance (without transfer) to be around \$875,709. This amount is used to pay cash for Capital items, it covers the principal and interest payments on capital leases.

D. ARPA Fund

With the passage of the Federal American Recovery Plan Act, the City was allotted a total of \$12,649,717.18 to be distributed in two tranches. The City has received all of the funds.

Below is a quick summary of how the funds have been spent to date in FY2024:

\$2,420,492 consisted of expenditures for the 3rd and final year of the replacement of the police fleet, Business Development departments update and upfit, and the purchase of several side arm trash trucks. Also covered was the Oak Park Stormwater project.

Sewer rehabilitation expenses were \$676,438 and we are continuing the work into FY2025.

KCI Stormwater projects continued and \$217,210 was spent.

Updates to the Judicial department including office upgrades and a new metal detector outside of the court room \$18,700.

HVAC for the new Fire HQ was completed in FY2024.

Amounts were set aside for Stormwater and Sewer projects as well which are nearing an end. These amounts will carry on to FY2025 as the projects are not yet completed.

ARPA fund projected ending fund balance:

The ending fund balance is projected to be \$2,250,392. FY2025 will spend this on the ongoing items in the plan: ongoing Sewer and Stormwater projects. Staff will evaluate where things stand and relay a plan for the remaining funds. The City has until December 2026 to fully expend all ARPA funds.

E. Hospitality & Accommodations Fund

The revenues continue to grow and come in strong. Hospitality tax revenue was \$1,877,320 and Accommodations were \$236,192. All of these were well above the budgeted amount and indicate a strong growth in tourism and tourism related activities in the City.

Staff projects an addition to fund balance of approximately \$630,000. This figure, however, may increase as some June payments are still being collected.

The notable expenditures throughout the year include:

- Theater program
- Summer Concert Series
- Blues & Jazz Festival
- Sooie BBQ Festival
- Various other smaller events and festivals
- Marketing for the Cultural center

Capital items expended:

- The trail tie in was completed at the pedestrian bridge.
- Security was updated and installed at the Cultural Center.
- Final payment on the auditorium work inside the Cultural Center was paid.
- The lighting and electrical was updated on the grounds of the Cultural Center.
- The steps leading up to the front doors were updated.

H&A fund projected ending fund balance:

The ending fund balance is projected to be around \$2,906,939.

In closing, the City of Mauldin had another great year with overall revenues exceeding expenses. This is due in large part to strong economic growth in our community, excellent

fiscal management by departments, and no unforeseen catastrophic events. Staff appreciates the vision of Council and their trust in staff's ability to successfully administer the affairs of this City and organization.