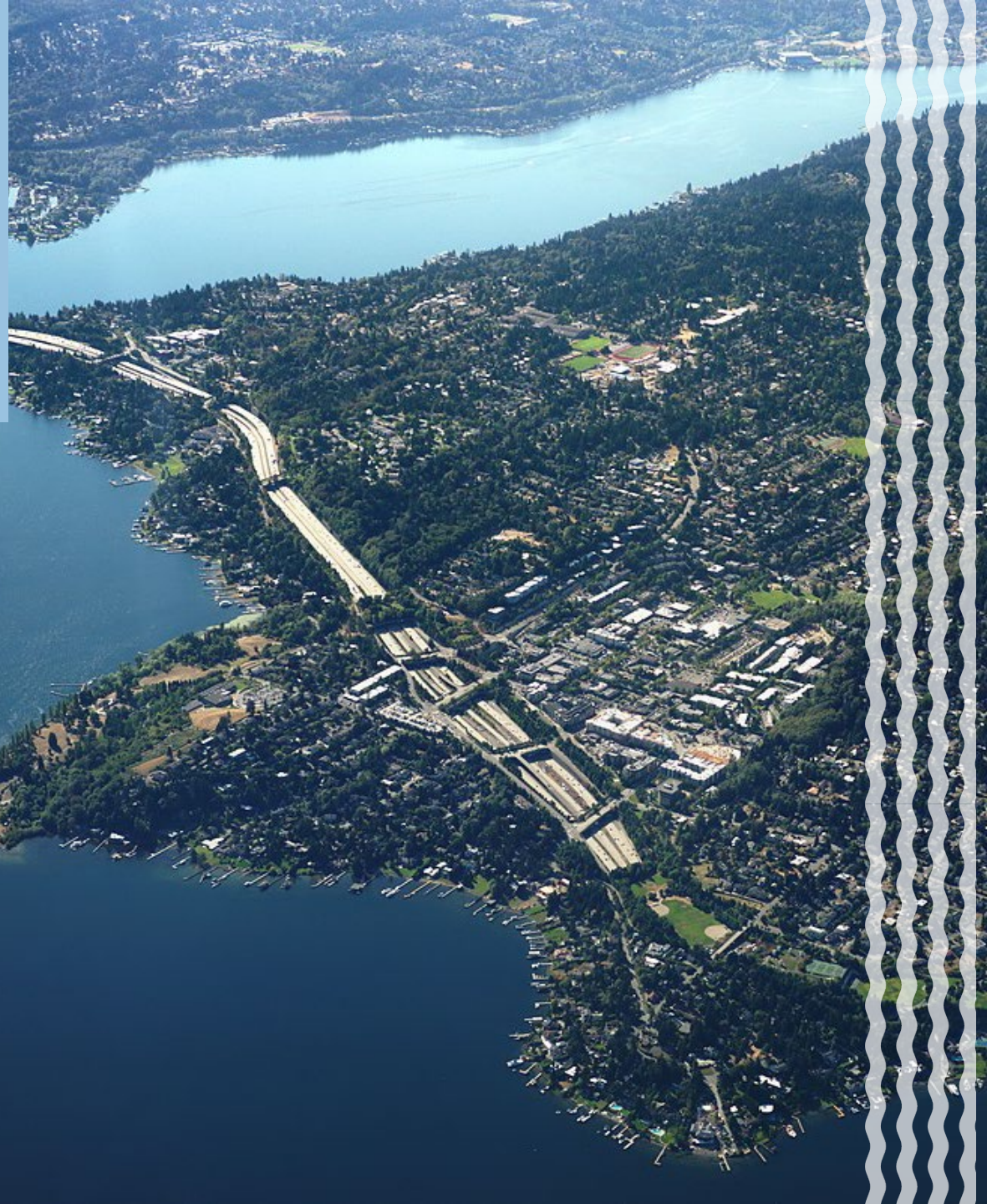




Ezee Fiber Telecommunications Franchise Agreement (Ord. No. 26-14)

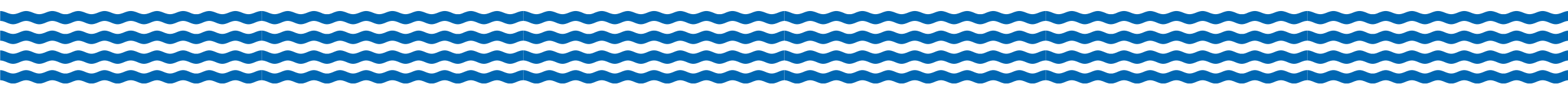
September 15, 2026

Daniel Kenny
Ogden Murphy Wallace, PLLC



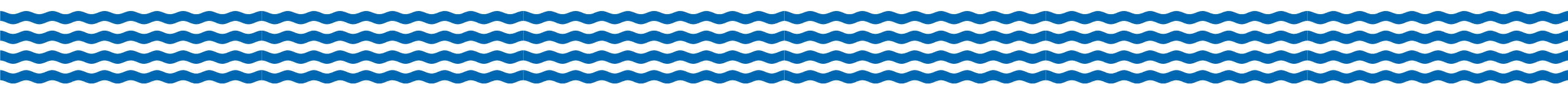
Background

- In February 2026, Ezee Fiber approached the City of Mercer Island seeking a telecommunications franchise agreement.
- Ezee Fiber does not currently own or operate telecommunications facilities within the City's rights-of-way.



Refresher re: Franchises

- Pursuant to RCW 35A.47.040, the City has the authority to issue franchise agreements that allow the franchisee general access to the City's rights-of-way. Most franchises cover all the City's rights-of-way.
- Franchisee will still need to apply for and receive all necessary permits for any and all installations; the franchise is only the first step.
- The City has franchises with a range of companies and utilities.
 - Forged Fiber; Zayo; Comcast –Cable; Centurylink –Broadband



Procedure

- A company seeking a franchise must apply to the City and pay a fee deposit.
- The City prepares the franchise agreement and the applicant is able to review and provide input.
- The draft franchise is reviewed by relevant city staff as well as by legal.
- City Council is required to consider the franchise at two council meetings prior to taking action.
- If approved, the applicant signs the franchise.



Ezee Franchise

- This franchise is the exact same as the franchise recently approved by the City Council for Forged Fiber.
- Competitive equity is required. Using the same, approved franchise, ensures fair competition by treating comparable providers equally.

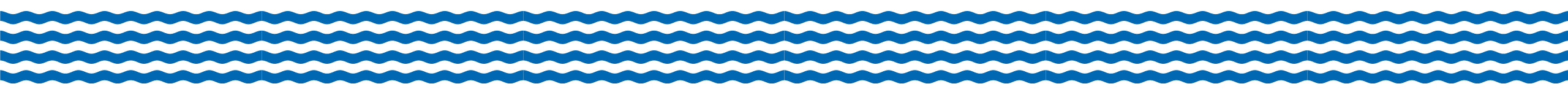


Questions

How could Council go about looking at options to change franchise provisions before the next one comes up?

As each franchise is renegotiated the City can examine the provisions contained in the agreement to determine whether changes are needed.

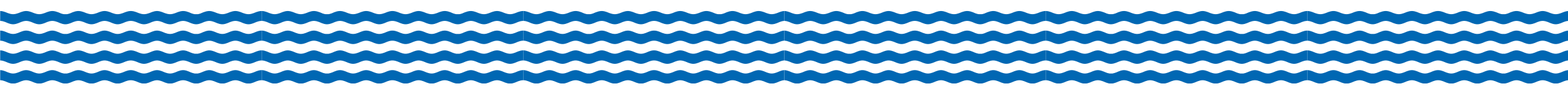
Potential areas where changes might be needed and might be appropriate might include things like insurance or areas with changes in federal or state law.



Questions

Does the City have any cost recovery from the Franchisee for City expenses (paid to outside counsel, etc.) for the process of adopting these franchise agreements?

Yes – the franchise application requires payment of a \$7,500 fee deposit which Ezee paid. Under state law, the franchisee is required to pay the actual administrative expenses (including attorney costs) incurred by a city that are directly related to receiving and approving a franchise.



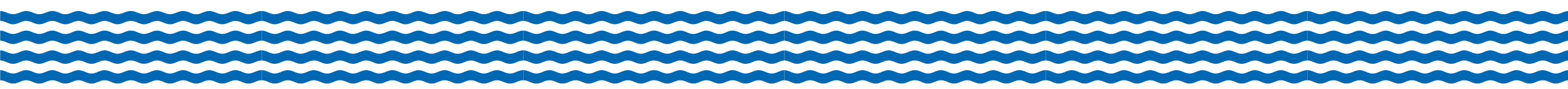
Questions

A resident asked that the city oversees installation and represents the neighbors during installation.

The city does not “oversee” (if I interpret “oversee” to mean actively engaged in oversight at the construction site) any permitted construction work in the City.

The City does have code enforcement authority and permit compliance/inspection authority to utilize if anything is not completed per the terms of the issued permit or in violation of the code/public works standards.

For example, see general right of way permit requirements and procedures in MIMC 19.09.060. See also, right of way permit inspection authority outlined in MIMC 19.09.060(Y) as well as restoration requirements in MIMC 19.09.0606(Q).



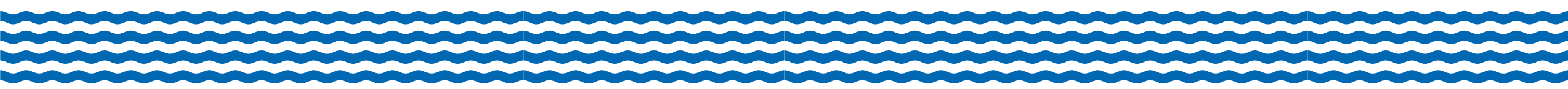
Questions

Request that the franchisee designate a contact person for the city and neighbors to contact re: poor installation and requires poor or abusive installation to be remedied.

All permits include the names and contact information for those doing the work. The City would work with the entity to address issues.

The code already includes an option for the City to require a performance guarantee. See MIMC 19.06.060(B)(2).

The code also allows the City to complete surface restoration if the permittee does not complete it and the permittee pays cost plus 25% and the City can use the set-aside account to ensure the permittee makes payment. See MIMC 19.09.060(R).



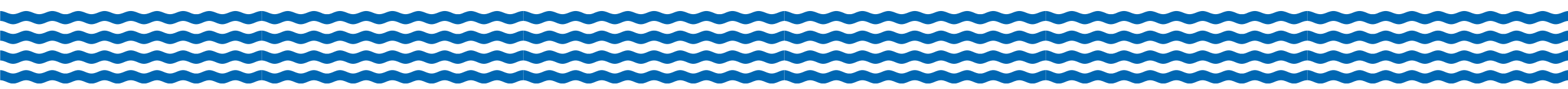
Questions

Request that the approval be conditioned on the franchisee using the least intrusive installation as possible.

Installations must be consistent with code. I would not recommend adding new/additional requirements beyond what is prescribed in code as those could be viewed as arbitrary. And, as noted, if the City starts to impose new conditions on one entrant, it may be viewed as discriminatory.

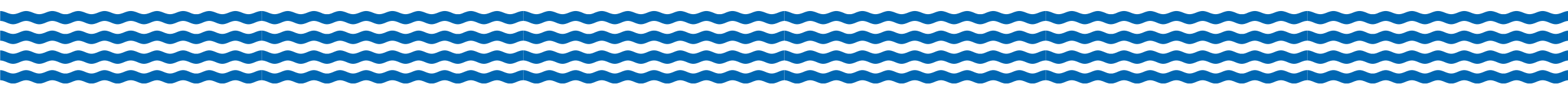
The code, though, does already allow the city engineer to attach conditions to a right-of-way permit to ensure the public health, safety and welfare. *See* MIMC 19.09.060(A)(3).

The Telecommunications Act states that "No State or local statute or regulation or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate telecommunications service." So, the City Engineer would assess and balance potential needs.



Additional Questions?

Recommended Action: Schedule Ordinance No. 26-14 for second reading on October 6, 2026 or later.



Thank you !

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