

COUNCIL PROCEEDINGS  
Casper City Hall – Council Chambers  
February 4, 2020

1. ROLL CALL

Casper City Council met in regular session at 6:04 p.m., Tuesday, February 4, 2020. Present: Councilmembers Bates, Cathey, Hopkins, Huber, Johnson, Lutz, Pacheco, Powell and Mayor Freel.

2. PLEDGE OF ALLEGIANCE

A Boy Scout led the audience in the Pledge of Allegiance.

3. MINUTES

Moved by Councilmember Pacheco, seconded by Councilmember Hopkins, to, by minute action, approve the minutes of the January 21, 2020, regular Council meeting, as published in the Casper-Star Tribune on January 28, 2020. Motion passed.

4. BILLS & CLAIMS

Moved by Councilmember Johnson, seconded by Councilmember Lutz, to, by minute action, approve payment of the February 4, 2020, bills and claims, as audited by City Manager Napier. Motion passed.

Bills & Claims 02/04/20

AMBI	Services	47.51
AceHrdwr	Goods	201.84
ActionGlass	Services	19,721.90
Addeco	Services	1,458.64
AffiliatesCnslng	Services	300.00
Airgas	Goods	1,076.92
AlloutFire	Services	80.00
Alsco	Services	697.03
AltitudeRecy	Services	8,899.00
AmeriTech	Goods	991.66
AmrcnTitle	Services	500.00
Amerigas	Goods	3,333.17
ArcofNC	Funding	2,916.67
ArrowheadHting	Services	491.92
AtlnticElect	Services	8,997.00
AtlasOffice	Goods	1,692.23
AtlasRprdctn	Services	116.40
BadgerMtr	Goods	4,536.00
BnkofAmerica	Goods	52,053.87
BHEnergy	Services	15.76
CarolinaSftwr	Goods	700.00
CsprBldgSys	Projects	74,239.00
CsprStarTrib	Ads	2,935.78

CsprTire	Goods	536.00
CenturyLink	Utilities	44.13
CH2M Hill	Projects	4,084.34
CHaler	Reimb	100.00
CityofCasper	Services	45,372.21
CityofCasperPD	Funding	1,213.01
CitySvcElect	Services	1,731.00
CvlEng	Projects	17,225.00
CMITeco	Goods	26,688.25
ComTech	Goods	173.50
Comtronix	Services	1,229.84
Cnvrgeone	Services	8,243.40
CPU	Goods	21,032.78
CrmScnInfo	Goods	109.87
DalcoInd	Goods	156.25
DDang	Refund	249.84
DsrtMtn	Goods	44,655.40
EMoore	Reimb	150.00
EPGCo	Goods	2,809.92
FireFghtsofNC	Services	1,714.00
FirstData	Services	1,100.79
FremontMotor	Goods	48,451.00
FuturePro	Goods	12,135.00
Galls	Services	315.10
GEMeds	Goods	53,757.00
Geosyntec	Services	586.82
GlobalEquip	Goods	6,062.54
GlobalPckging	Goods	101,232.00
GolderAssoc	Projects	42,724.88
GovtJobs	Services	14,324.63
GSGArchtr	Services	1,540.00
GudahlWilliamsInvest	Services	500.00
GolfSttsDist	Goods	4,040.00
GWMchncl	Services	18,895.40
GYoneda	Reimb	79.90
HDREng	Services	3,639.31
HitekComm	Goods	604.92
Homax	Goods	37,127.81
Hse&Rbbr	Goods	77.42
Hwrdsply	Goods	205.45
ITCElect	Services	196.00
JGreenwood	Reimb	150.00
JJones	Reimb	115.50
KHowell	Reimb	539.66
Kubwtr	Goods	5,618.85

LawHYoung	Services	2,700.00
LisasSpicSpan	Services	825.00
LongBldg	Services	7,481.60
MAnderson	Reimb	100.00
McMurryRdyMx	Goods	1,314.76
MrclRec	Goods	760.60
Motorola	Goods	1,700.98
MtnScales	Goods	280.00
MtnStsLitho	Services	48.92
MncplCode	Goods	981.49
NatareCorp	Goods	28,670.76
NCHCorp	Goods	1,125.00
OvrheadDr	Goods	2,421.78
Pantheon	Goods	153.80
Pepsi	Goods	114.41
PMosier	Reimb	150.00
PrnnlEnrgy	Services	494.18
PoliceFaciltyDsgn	Services	19,000.00
PrtlndStUnv	Goods	910.33
PrntrPros	Services	485.00
Prntwrks	Services	1,049.11
QltyOfficeSltns	Goods	46.21
RmshornConst	Projects	34,254.56
RecyklingInd	Goods	13,743.30
RckyMtnPwr	Services	441,273.24
RooterSwrSvcs	Services	596.88
SftyKleen	Services	1,890.00
SltsTech	Goods	18,970.27
SDunnuck	Reimb	132.70
ShmrckEnv	Services	424,368.34
SkylineRnchs	Services	1,130.44
StntcConslt	Services	18,159.95
StateWY	Services	1,425.00
SuperiorInd	Goods	5,013.86
SWI	Projects	1,305.00
TDach	Reimb	152.24
TopOffice	Services	163.20
TretoConst	Projects	158,670.00
TriStateOil	Goods	205.75
TrihydroCorp	Services	8,091.75
TylrTech	Services	12,709.00
Verizon	Services	324.21
VermeerSlS	Goods	61,985.00
VwpntGvt	Services	2,457.00
VRCCo	Goods	269.50

WDaisy	Reimb	471.45
WstlndPrk	Services	4,344.28
WLCEng	Services	22,240.68
Wydot	Services	53.21
WyMedCtr	Services	522.30
WYSteel	Goods	4,630.81
XeroxCorp	Services	221.08
YthCrsisCntr	Funding	17,452.50
Total		2,045,582.45

5. BRIGHT SPOT – BOY SCOUT ANNIVERSARY

Mayor Freel welcomed Boy Scouts from the Greater Wyoming Council to the meeting. Boy Scout Executive Brad Bodoh introduced members present from Pack 13 and Troops 13, 167 and 1310. He also explained that the Council is celebrating 100 years of Scouting in our area. Mayor Freel read and presented a proclamation honoring this anniversary.

6. COMMUNICATIONS FROM PERSONS PRESENT

No citizens addressed the Council.

7. PUBLIC HEARING - MINUTE ACTION

Mayor Freel opened the public hearing for the consideration of the issuance of new Microbrewery Liquor License No. 6 for Mountain Hops Brewhouse, LLC d/b/a Mountain Hops Brewhouse, located at 612 North Beverly Street.

City Attorney Henley entered five (5) exhibits: correspondence from Fleur Tremel, to J. Carter Napier, dated January 21, 2020; an affidavit of publication, as published in the Casper-Star Tribune, dated January 27, 2020; an affidavit of website publication, as published on the City of Casper website, dated January 21, 2020; an affidavit of notice of conspicuous posting, as posted at 612 North Beverly Street, dated January 23, 2020; and the liquor license application filed December 16, 2020. City Manager Napier provided a brief report.

Speaking in support was applicant Eric Magnuson.

There being no others to speak for or against the issues involving Microbrewery Liquor License No. 6, the public hearing was closed.

Moved by Councilmember Powell, seconded by Councilmember Johnson, to, by minute action, authorize the issuance of Microbrewery Liquor License No. 6. Motion passed.

8.A ORDINANCE– THIRD READING

Following ordinance read:

ORDINANCE NO. 1-20  
AN ORDINANCE AMENDING SECTION 10.24.020 OF THE  
CASPER MUNICIPAL CODE PERTAINING TO FORTY MILE  
PER HOUR SPEED ZONES

WHEREAS, speed data along Metro Road supports raising the speed limit from 30 miles per hour to 40 miles per hour.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING:

That Section 10.24.020 of Chapter 10.24 of the Casper Municipal Code is hereby amended to add an additional paragraph "C" which reads as follows:

C. Metro Road from Bryan Stock Trail to Station Road.

This Ordinance shall become in full force and effect upon passage on third reading and publication.

PASSED on 1<sup>st</sup> reading the 7<sup>th</sup> day of January, 2020.

PASSED on 2<sup>nd</sup> reading the 21<sup>st</sup> day of January, 2020.

PASSED, APPROVED AND ADOPTED on 3<sup>rd</sup> and final reading the 4<sup>th</sup> day of February, 2020.

Councilmember Cathey presented the foregoing ordinance for approval, on third reading. Seconded by Councilmember Hopkins. There being no one to speak regarding the ordinance, and no discussion or amendments, motion passed.

#### 8.B ORDINANCE— THIRD READING

Following ordinance read:

#### ORDINANCE NO. 2-20

AN ORDINANCE APPROVING A ZONE CHANGE FOR A 2.8-ACRE PORTION OF TRACT 4, NORTH PLATTE RIVER PARK ADDITION, GENERALLY LOCATED AT THE CORNER OF EVENTS DRIVE AND NORTH POPLAR STREET, NORTH OF WILKINS WAY, FROM PH (PARK HISTORIC) TO C-4 (HIGHWAY BUSINESS)

WHEREAS, after a public hearing on September 19, 2019, the City of Casper Planning and Zoning Commission, by a 2-3 vote, failed to pass a motion recommending that the City Council approve a zone change of a 2.8-acre portion of Tract 4, North Platte River Park Addition, generally located at the corner of Events Drive and North Poplar Street, north of Wilkins Way, from PH (Park Historic) to C-4 (Highway Business); and,

WHEREAS, pursuant to Section 17.12.170(E) of the Casper Municipal Code, if a zone change is denied, the Commission shall state, in writing, the reasons for its decision. Decisions of the Commission to deny a zone change may be appealed to the City Council, in writing, within ten calendar days from the date of the written decision, pursuant to Section 17.12.170(G) of the Casper Municipal Code; and,

WHEREAS, the Commission's written decision is dated September 26, 2019, and the applicant provided a written appeal to the City dated September 27, 2019; and,

WHEREAS, the governing body of the City of Casper finds that the Planning and Zoning Commission's decision to deny the zone change should be overturned, and the above-described zone change should be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING:

#### SECTION 1:

That a zone change of a 2.8 -acre portion of Tract 4, North Platte River Park Addition, generally located at the corner of Events Drive and North Poplar Street, north of Wilkins Way, from PH (Park Historic) to C-4 (Highway Business), is hereby approved.

SECTION 2:

This ordinance shall be in full force and effect from and after passage on three readings and publication pursuant to law.

PASSED on 1<sup>st</sup> reading the 7<sup>th</sup> day of January, 2020.

PASSED on 2<sup>nd</sup> reading the 21<sup>st</sup> day of January, 2020.

PASSED, APPROVED AND ADOPTED on 3<sup>rd</sup> and final reading the 4<sup>th</sup> day of February, 2020.

Councilmember Bates presented the foregoing ordinance for approval, on third reading. Seconded by Councilmember Lutz. No citizens spoke on the ordinance. Councilmember Huber abstained. Motion passed.

8.C ORDINANCE– THIRD READING

Following ordinance read:

ORDINANCE NO. 3-20

AN ORDINANCE GRANTING A FRANCHISE TO INTTEC, INC.  
(A WHOLLY OWNED SUBSIDIARY OF VISIONARY COMMUNICATIONS, INC.) TO OPERATE AND MAINTAIN A TELECOMMUNICATIONS SYSTEM IN THE CITY OF CASPER, WYOMING.

WHEREAS, under Wyoming Statute § 15-1-103(a)(xxxiii), a city may grant franchises for such terms as the governing body deems proper to any utility company, provided no franchise may be entered into with any person in which that person is given an exclusive right for any purpose whatsoever; and,

WHEREAS, InTTec, Inc., a wholly-owned subsidiary of Visionary Communications, Inc., is a utility company that desires a franchise from the City; and,

WHEREAS, the City has determined that it is in the public interest to grant a franchise to InTTec, Inc. under the terms and conditions contained herein.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING:

SECTION 1. Grant of Franchise.

A. Subject to the terms and conditions set forth in this Franchise, the City hereby grants to InTTec, Inc. a nonexclusive authorization to construct, maintain, operate, upgrade, adjust, protect, support, raise, lower, disconnect, remove and relocate its cables, poles, wires, conduits, conductors, pipes and related appurtenances ("Facilities") for its System in, under, along, over and across the present and future streets, alleys and avenues of the City ("Public Ways"), for the purpose of providing telecommunication services (as defined in 47 U.S.C. § 153) and related services to the City's inhabitants. This Franchise shall constitute both a right and an obligation to provide the System required by, and to fulfill the obligations set forth in, the provisions of this Franchise.

B. Nothing in this Franchise shall be deemed to waive the lawful requirements of any generally applicable City ordinance existing as of the effective date of this Franchise.

C. This Franchise shall not be interpreted to prevent the City from imposing additional lawful conditions, including additional compensation conditions for use of Public Ways, should InTTec, Inc. provide services other than a telecommunication system (for example, a cable system for purposes of providing a cable service).

D. This Franchise is intended to convey limited rights and interests in Public Ways as set forth in Wyoming Statute § 15-1-103(a)(xxxiii) and its subsections. It is not a warranty of title or interest in any Public Way; it does not provide InTTec, Inc. with any interest in any particular location within the Public Way; and it does not confer rights other than as expressly provided in the grant hereof.

SECTION 2. Acceptance by InTTec, Inc... This ordinance shall be published once in a newspaper of general circulation within the City, pursuant to Wyoming Statute § 15-1-116, and shall become effective on the day following its publication. Within sixty (60) days after the passage of this Ordinance by the City, InTTec, Inc. shall file a signed copy thereof with the City Clerk, otherwise the Ordinance and the rights, privileges and authority granted herein shall be null and void.

SECTION 3. Term. The Term of this Franchise is ten (10) years commencing on the date of Acceptance by InTTec, Inc. as set forth in Section 2, above, and then from year-to-year until a party gives the other party at least ninety (90) days' notice in writing and in advance of expiration of the initial term or any subsequent term stating an intent to terminate the agreement at the end of such existing term.

SECTION 4. Franchise Fee.

A. Payments and Reports.

1. Quarterly Payments. From and after the date of InTTec, Inc.'s Acceptance of this Ordinance and until its expiration, InTTec, Inc. will pay the City five percent (5%) of InTTec, Inc.'s local exchange access service Gross Revenue (as defined in Appendix A hereto). InTTec, Inc.'s Franchise fee payments to the City shall be computed quarterly for the preceding calendar quarter ending March 31, June 30, September 30, and December 31. Each quarterly payment shall be due and payable no later than thirty (30) days after those dates.

2. No Accord and Satisfaction. No acceptance of any payment shall be construed as an accord and satisfaction by the City that the amount paid is, in fact, the correct amount, nor shall any acceptance of payments be construed as a release of any claim the City may have for additional sums payable or for the performance of any other obligation of InTTec, Inc..

B. Franchise Termination. If this Franchise terminates for any reason, and InTTec, Inc. ceases operations in the City or is not in the negotiation with the City of a replacement Franchise, InTTec, Inc. shall file with the City within ninety (90) calendar days of the date of termination, a financial statement, certified by an independent certified public accountant, showing the Gross Revenues received by InTTec, Inc. since the end of the previous fiscal year.

C. Late Payments. If any payment due quarterly is not received within thirty (30) days from the end of the calendar quarter, InTTec, Inc. shall pay interest on the amount due (at the prime rate as listed in the Wall Street Journal on the date the payment was due), compounded daily, calculated from the date that payment was originally due until the date the City receives the payment.

D. Underpayments. If a net franchise underpayment is discovered as a result of an audit, InTTec, Inc. shall pay interest at the rate of eight percent (8%) per annum, compounded quarterly, calculated from the date each portion of the underpayment was originally due until the date InTTec, Inc. remits the underpayment to the City.

SECTION 5. Records Inspection. No more frequently than once every two years, the City shall have the right to audit records to ensure compliance with this Franchise. The City shall give reasonable written notice of its intent to audit. It is InTTec, Inc.'s responsibility to collect and to make available to the City for copying, at InTTec, Inc.'s local office, all records upon which a franchise fee is required to be paid. If a City review of payments shows that InTTec, Inc. has underpaid the franchise fee by: (i) three percent (3%) or less for the year, the City shall bear the

cost of the audit; (ii) more than three percent (3%) but less than or equal to five percent (5%) for the year, the City and InTTec, Inc. shall each bear an equal amount of the cost of the audit; or (iii) more than five percent (5%) for the year, InTTec, Inc. shall bear the cost of the audit.

SECTION 6. Non -Exclusive Franchise. The right to use and occupy the Public Ways of the City shall be nonexclusive, and the City reserves the right to use the Public Ways for itself or any other entity. The City's use, however, shall not unreasonably interfere with InTTec, Inc.'s Facilities or the rights granted to InTTec, Inc. herein.

SECTION 7. City Regulatory Authority. In addition to the provision herein contained, the City reserves the right to adopt such additional ordinances and regulations as may be deemed necessary in the exercise of its police power for the protection of the health, safety and welfare of its citizens and their properties, and exercise any other rights, powers, or duties required or authorized, under the Constitution of the State of Wyoming, the laws of the State of Wyoming or City ordinance.

SECTION 8. Indemnification.

A. General Indemnification. InTTec, Inc. shall indemnify, defend and hold harmless, the City, its officers, elected and appointed officials, employees, agents and volunteers, from any action or claim for injury, death, damage, loss, liability, cost or expense, including court appeal costs and reasonable attorney's fees or reasonable expenses, arising from any casualty or accident to person or property, including, without limitation, copyright infringement, defamation, and all other damages in any way arising out of, or by reason of, any construction, excavation, operation, maintenance, or any other act done under this Franchise, by or for InTTec, Inc., its agents, or its employees, or by reason of any neglect or omission of InTTec, Inc.. InTTec, Inc. shall consult and cooperate with the City while conducting its defense of the City.

B. Indemnification for Relocation. InTTec, Inc. shall indemnify the City for any damages, claims, additional costs or reasonable expenses assessed against, or payable by, the City arising out of, or resulting from, directly or indirectly, InTTec, Inc.'s failure to remove, adjust or relocate any of its facilities in the Public Ways in a timely manner in accordance with Section 12 of this Franchise.

C. Hazardous Substances Indemnification. InTTec, Inc. shall indemnify the City against any claims, costs and expenses of any kind, whether direct or indirect, incurred by the City arising out of a release of hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601 *et seq.*) caused by the System.

SECTION 9. Insurance Requirements.

A. Prior to the commencement of any work, InTTec, Inc. shall procure and maintain for the duration of the contract insurance against claims for injuries to persons, death or damages to property which may arise from or in connection with the performance of the work hereunder by InTTec, Inc., its subcontractors, agents, representatives, or employees.

B. Minimum Scope and Limit of Insurance. Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): On an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than the sum of Two Hundred Fifty Thousand Dollars (\$250,000) to any claimant for any number of claims arising out of a single transaction or occurrence; or the sum of Five Hundred Thousand Dollars (\$500,000) for all claims arising out of a single transaction or occurrence.

2. Automobile Liability: Covering, Code 1 (any auto), or if InTTec, Inc. has no owned autos, Code 8 (hired) and 9 (non -owned), with limit no less than Five Hundred Thousand Dollars (\$500,000) per accident for bodily injury and property damage.



3. Workers' Compensation: as required by the State of Wyoming with Statutory Limits. The Workers' Compensation policy shall be endorsed to contain Employers Liability/Stop Gap Coverage.

4. Professional Liability (Errors and Omissions) Insurance appropriate to the InTTec, Inc.'s profession, with limit no less than the sum of Two Hundred Fifty Thousand Dollars (\$250,000) to any claimant for any number of claims arising out of a single transaction or occurrence; or the sum of Five Hundred Thousand Dollars (\$500,000) for all claims arising out of a single transaction or occurrence.

C. Higher Limits. If InTTec, Inc. maintains higher limits than required under this Agreement, then the City shall be entitled to coverage for the higher limits maintained by InTTec, Inc... Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

D. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. *Additional Insured Status*

The City, its officers, elected and appointed officials, employees, agents and volunteers are to be included as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of InTTec, Inc. including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage shall be provided in the form of an endorsement to InTTec, Inc.'s insurance.

2. *Primary Coverage*

For any claims related to this contract, the InTTec, Inc.'s insurance coverage shall be primary and non-contributory insurance as respects the City, its officers, elected and appointed officials, employees, agents and volunteers.

3. *Waiver of Subrogation*

InTTec, Inc. hereby grants to the City a waiver of any right to subrogation which Commercial General and Auto Liability of InTTec, Inc. may acquire against the City by virtue of the payment of any loss under such insurance, for losses caused by and to the extent of InTTec, Inc.'s negligence. InTTec, Inc. agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

4. *Acceptability of Insurers*

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than ANII, unless otherwise agreed to in writing by the City.

5. *Claims Made Policies*. If any of the required policies provide coverage on a claims made basis:

a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

b. Insurance must be maintained and evidence of insurance must be provided *for at least three (3) years after completion of the contract of work*. However, InTTec, Inc.'s liabilities under this Contract shall not be deemed limited in any way by the insurance coverage required.

c. If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, InTTec, Inc. must purchase "extended reporting" coverage for a minimum of *three (3) years* after completion of contract work and at all times thereafter until the applicable statute of limitations runs.

6. *Verification of Coverage*

InTTec, Inc. shall furnish the City with a Memorandum of Insurance coverage required by this clause. However, failure to obtain the required documents prior to the work beginning shall not waive InTTec, Inc.'s obligation to provide them.

*7. Subcontractors*

InTTec, Inc. shall require and verify that all subcontractors maintain insurance appropriate for the work being performed and InTTec, Inc. shall ensure that the City is an additional insured on insurance required from subcontractors.

*8. Special Risks or Circumstances*

The City reserves the right to reasonably modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**SECTION 10. Annexation.**

A. Extension of City Limits. Upon the annexation of any territory to the City, the rights granted herein shall extend to the annexed territory to the extent the City has such authority. All System Facilities owned, maintained, or operated by InTTec, Inc. located within any Public Ways of the annexed territory shall thereafter be subject to all of the terms hereof.

B. Notice of Annexation. When any territory is approved for annexation to the City, the City's Community Development Director or his/her designee shall within ten (10) business days provide by certified mail to InTTec, Inc.: (a) each site address to be annexed as recorded on City assessment and tax rolls; (b) a legal description of the proposed boundary change; and (c) a copy of the City's ordinance approving the proposed annexation. The notice shall be mailed to the contact in Section 19, or such other updated address as InTTec, Inc. shall provide to the City in writing by certified mail, return receipt requested. Notwithstanding the foregoing, failure of the City to provide the notice described herein shall not constitute a material breach of this Franchise.

**SECTION 11. Plan, Design, Construction and Installation of InTTec, Inc.'s Facilities.**

A. All Facilities under authority of this Ordinance shall be used, constructed and maintained in accordance with applicable law, codes and regulations.

B. InTTec, Inc. shall, prior to commencing construction work in Public Ways or other public places, apply for a permit from the City. InTTec, Inc. will abide by all applicable ordinances, rules, regulations and requirements of the City consistent with applicable law, and the City may inspect the manner of such work and require remedies as may be necessary to assure compliance. InTTec, Inc. shall obtain excavation permits for streets and alleys, regardless of surfacing types, and traffic control permits for all streets, and shall not unnecessarily obstruct the use of Public Ways. All mains, services, and pipes laid or installed under this Franchise shall be so located and placed as not to obstruct or interfere with any water pipes, drains, sewers or other structures already installed, and all such mains, services and pipes shall be installed subject to approval of the City Manager or his/her designee. Notwithstanding the foregoing, InTTec, Inc. shall not be obligated to obtain a permit to perform emergency repairs.

C. To the extent practical and consistent with any permit issued by the City, all Facilities shall be located so as to cause minimum interference with the Public Ways and shall be constructed, installed, maintained, renovated or replaced in accordance with applicable rules, ordinances and regulations of the City, as they may be amended from time to time.

D. InTTec, Inc., in doing any work in connection with its Facilities, shall avoid, so far as practicable, interfering with the use of any Public Way or public place, and where the paving or surface of any street, alley or public place is disturbed, InTTec, Inc., at its own expense and in a manner satisfactory to the City Manager or his/her designee, shall replace such paving or surface in accordance with the City of Casper's Standard Specifications for Street Construction in the

Casper Municipal Code, and any other applicable rules, ordinances and regulations, as they may be amended from time to time.

E. Paved streets shall be bored or drilled when crossed under the ground by InTTec, Inc.'s Facilities so that the City's paved Public Ways will not be unnecessarily damaged. The City Manager or his/her designee, in his/her sole discretion, may allow other construction methods when it is found that drilling or boring is unreasonable and will not provide a sufficient public benefit for the cost.

F. If, during the course of work on its Facilities, InTTec, Inc. causes damage to or alters the Public Way or other public property, InTTec, Inc. shall replace and restore such Public Way or public property at InTTec, Inc.'s expense to a condition equal to or better than the condition that existed immediately prior to such damage or alteration.

G. InTTec, Inc. shall have the right to excavate the Public Ways subject to reasonable conditions and requirements of the City. All excavation shall be performed in a manner that creates the least inconvenience to the public, and in accordance with permits and manuals issued by the City. In doing any work in connection with said mains, pipes and services, InTTec, Inc. shall avoid, so far as practicable, interfering with the use of any street, alley or public place.

H. Strand Maps. Upon reasonable request, InTTec, Inc. agrees to provide strand maps or similar records kept in its usual course of business to an unaffiliated person engaged by City if such person signs a reasonable nondisclosure agreement.

I. Nothing in this Ordinance shall be construed to prevent the City from constructing, maintaining, repairing, or relocating its sewers, streets, water mains, sidewalks, or other public property. However, before commencing any work within a Public Way that may affect InTTec, Inc.'s Facilities, the City shall give written notice to InTTec, Inc., and all such work shall be done, insofar as practicable, in such a manner as not to obstruct, injure, or prevent the free use and operation of InTTec, Inc.'s Facilities.

J. InTTec, Inc. shall not attach to, or otherwise use or commit to use, any pole owned by City until a separate pole attachment agreement has been executed by the parties.

K. This Agreement does not establish priority for use of Public Ways over holders of other permits or franchises; it grants no vested interest in occupying any particular position in the Public Ways. The City shall control distribution of space in the Public Ways, but may not exercise that authority unreasonably. No location of any of the Facilities shall give rise to a vested interest in public property.

## SECTION 12. Relocation of Facilities and Discontinuing Use/Abandonment.

### A. Relocation for the City.

1. InTTec, Inc. shall protect, support, adjust, raise, lower, temporarily disconnect, relocate, or remove any InTTec, Inc. Facilities, property or equipment located in a Public Way when required by the City consistent with its police powers or when reasonable public convenience requires such change (for example, without limitation, by reason of traffic conditions, public safety, Public Way vacation, Public Way construction, change or establishment of Public Way grade, installation of sewers, drains, gas or water pipes, or any other types of structures or improvements by the City for public purposes, but excluding projects undertaken for beautification or aesthetics). Such work shall be performed at InTTec, Inc.'s expense. Except during an emergency, the City shall provide reasonable notice to InTTec, Inc. of its need to relocate that is commensurate with the complexity of the project, but in all events never less than sixty (60) days, and allow InTTec, Inc. an opportunity to perform such action. Following notice by the City, InTTec, Inc. shall relocate, remove, replace, modify or disconnect any of its facilities or equipment within any Public Way, or on any other property of the City. If the City requires InTTec, Inc. to relocate its facilities located

within the Public Way, the City shall provide InTTec, Inc. with an alternative location within the Public Way.

2. Excluding circumstances or events outside of its reasonable control, if InTTec, Inc. fails to complete this work within the time prescribed to the City's satisfaction, the City may cause such work to be done at InTTec, Inc.'s cost; and provided further that the City shall not be liable for any damage to any portion of the System except to the extent caused by the negligence of the City or its contractor. Within thirty (30) days of receipt of an itemized list of those costs, InTTec, Inc. shall pay the City.

B. Relocation for a Third Party. InTTec, Inc. shall, at the request of any person or entity holding a lawful permit issued by the City, protect, support, adjust, raise, lower, temporarily disconnect, relocate or remove any InTTec, Inc. Facilities, property or equipment located in the Public Ways, provided that the cost of such action is borne by the person requesting it and InTTec, Inc. is given advance written notice of not less than 60 days. In such situation, InTTec, Inc. may also require advance payment by the benefited person or entity.

C. Temporary Changes for Other Permittees. At the request of any person or entity holding a valid permit upon reasonable advance notice, InTTec, Inc. shall temporarily raise, lower or remove its Facilities, property or equipment as necessary to permit the moving of a building, vehicle, equipment or other item. The expense of such temporary changes must be paid by the permit holder, and InTTec, Inc. may require a reasonable deposit of the estimated payment in advance.

D. Alternatives to Relocation. InTTec, Inc. may, after receipt of written notice requesting a relocation of Facilities, submit to the City written alternatives to such relocation. Such alternatives shall include the use and operation of temporary transmitting facilities in adjacent Public Ways. The City shall promptly evaluate such alternatives and advise InTTec, Inc. in writing if one or more of the alternatives are suitable. If requested by the City, InTTec, Inc. shall promptly submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by InTTec, Inc. full and fair consideration. In the event the City ultimately determines that there is no other reasonable alternative, InTTec, Inc. shall relocate the components of the System as otherwise provided herein.

E. Discontinuing Use/Abandonment of System Facilities. Whenever InTTec, Inc. intends to discontinue using any facility in the Public Ways, InTTec, Inc. shall submit for the City's approval a complete description of the facility and the date on which InTTec, Inc. intends to discontinue using the facility. InTTec, Inc. may remove the facility or request that the City permit it to remain in place and to convey same to City through a letter of abandonment or bill of sale. The City may require InTTec, Inc. to perform a combination of abandonment, modification or removal of the facility upon a reasonable schedule set by the City. Until such time as InTTec, Inc. abandons, removes or modifies the facilities, as directed by the City, InTTec, Inc. shall be responsible for all necessary repairs and relocations of the facility, as well as maintenance of the Public Way, in the same manner and degree as if the facility were in active use, and InTTec, Inc. shall retain all liability for such facility during such time. If InTTec, Inc. abandons its facilities, the City may choose to use such facilities for any purpose whatsoever including, but not limited to, access purposes.

SECTION 13. Vegetation Management. InTTec, Inc. shall have the authority to trim trees and other natural growth in the Public Ways in order to access and maintain the Facilities in compliance with applicable law and industry standards. This grant shall in no way impose a duty on InTTec, Inc.; instead, this grant gives permission to InTTec, Inc. should InTTec, Inc. elect to conduct such activities from time -to -time in order to access and maintain its Facilities.

SECTION 14. Omitted.

SECTION 15. Franchise Noncompliance; Claims Under Agreement.

A. In the event that the City believes that InTTec, Inc. has not complied with the terms of the Franchise, the City's Public Services Director or his/her designee shall informally discuss the matter with InTTec, Inc. If these discussions do not lead to resolution of the problem, the City shall notify InTTec, Inc. in writing of the exact nature of the alleged noncompliance.

B. InTTec, Inc. shall have thirty (30) days from receipt of the written notice described in subsection 15. A. to either respond to the City, contesting the assertion of noncompliance and requesting a public hearing of same, or otherwise initiate reasonable steps to remedy the asserted noncompliance issue, notifying the City of the steps being taken and the projected date that they will be completed. A public hearing shall be held within sixty (60) days of the request.

C. The City and InTTec, Inc. agree that, except to the extent inconsistent with applicable law, any and all claims asserted and arising under this Agreement, including from the determination of a public hearing held pursuant to subsection 15.13. above, shall be heard and determined either in a state or federal court located in the City.

SECTION 16. No Waiver of Rights. Neither the City nor InTTec, Inc. shall be excused from complying with any of the terms and conditions contained herein by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions. Each party expressly reserves any and all rights, remedies, and arguments it may have at law or equity, without limitation, and to argue, assert, and/or take any position as to the legality or appropriateness of any provision in this Ordinance that is inconsistent with State or Federal law, as may be amended.

SECTION 17. Transfer of Franchise. InTTec, Inc.'s right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered without notice to the City, except when said sale, transfer, assignment, or encumbrance is to an entity controlling, controlled by, or under common control with InTTec, Inc., or for transfers in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of InTTec, Inc. in the Franchise or Facilities in order to secure indebtedness.

SECTION 18. Amendment. Amendments to the terms and conditions contained herein shall be mutually agreed upon by the City and InTTec, Inc. and formally adopted by the City Council as an ordinance amendment.

SECTION 19. Notices. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof or (b) within three (3) business days after such notice is deposited in the United States Mail, postage prepaid, certified, return -receipt requested, and addressed to the Parties as set forth below:

The City of Casper, Wyoming

Attn: City Attorney's Office

200 N. David Street

Casper, WY 82601

InTTec, Inc.:

Attn: Contracts Management

1001 S Douglas Hwy, #201

Gillette, WY 82716

SECTION 20. Severability. If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority, including any

state or federal regulatory authority having jurisdiction thereof, or unconstitutional, illegal or invalid by any court of common jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and 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 or any renewal or renewals thereof.

SECTION 21. Governmental Claims Act. The City does not waive any right or rights it may have pursuant to the Wyoming Governmental Claims Act, W. S. § 1-39-101, et seq., and the City specifically reserves the right to assert any and all rights, immunities, and defenses it may have pursuant to the Wyoming Governmental Claims Act.

PASSED on 1<sup>st</sup> reading the 7<sup>th</sup> day of January, 2020.

PASSED on 2<sup>nd</sup> reading the 21<sup>st</sup> day of January, 2020.

PASSED, APPROVED AND ADOPTED on 3<sup>rd</sup> and final reading the 4<sup>th</sup> day of February, 2020.

#### APPENDIX A

#### LISTING OF SERVICE CATEGORIES INCLUDED IN "GROSS REVENUE" FOR CALCULATION OF FRANCHISE FEES

Business Local Access—including Flat Rate, Multiparty, and Extended Area Service

Business Measured Usage Local Access Service

Flat Usage Local Access Trunks

Low Income Telephone Assistance Program Local Access

Measured Rate Local Access Trunk Usage

Message Rate Local Access Trunk Usage

Public Access Line (PAL) Service

Residential Local Access—including Flat Rate, Multiparty, and Extended Area Service

Residential Measured Usage

THE FOLLOWING IS A NON-EXCLUSIVE LISTING OF CATEGORIES OF REVENUE NOT REPRESENTING THE RETAIL SALE OF LOCAL ACCESS SERVICES AND THEREFORE EXCLUDED FROM THE DEFINITION OF "GROSS REVENUES" AND, THEREFORE, ARE NOT INCLUDED IN THE CALCULATION OF ANY FEE DUE TO THE CITY:

Proceeds from the sale of bonds, mortgages, or other evidences of indebtedness, securities or stocks

Bad debt write-offs and customer credits

Revenue from directory advertising

Any amounts collected from customers that are to be remitted to a federal or state agency as part of a Universal Service Fund or other government program, including, but not limited to, support for the hearing impaired

Any amounts collected for taxes, fees, or surcharges and paid to the federal, state or local governments

Revenues from internet access

Revenues from digital or other electronic content, such as computer software, music and video downloads

Revenues from equipment sales, rentals, installation and maintenance

Revenues from any carrier purchased for resale

Revenues from private line services not for switched local access service

Councilmember Johnson presented the foregoing ordinance for approval, on third reading. Seconded by Councilmember Bates. There being no one to speak regarding the ordinance, and no discussion or amendments, motion passed.

9.A RESOLUTION

Following resolution read:

RESOLUTION NO. 20-33  
A RESOLUTION APPROVING THE CREATION OF AN  
LGBTQ ADVISORY COMMITTEE FOR THE CITY COUNCIL.

Councilmember Powell presented the foregoing resolution for adoption. Seconded by Councilmember Johnson. City Manager Napier provided a brief report.

Speaking in support was: Ryan McConnaughey, 97 Calypso; and Caitlyn Yonkers, 3436 Whispering Springs.

Speaking in opposition was: Linda Bergeron, 2355 S. Larkspur; Doug Bergeron, 2355 S. Larkspur and Connie Cropsey 940 Waterford.

Council discussed the item at length. Moved by Councilman Cathey to amend the resolution to create a Human Rights Advisory Committee (rather than a LGBTQ Advisory Committee). Seconded by Councilmember Hopkins. Council discussed the matter briefly. Councilmembers Bates, Cathey and Hopkins voted aye. Motion to amend failed. Councilmembers Bates, Cathey and Hopkins voted nay on the resolution as read. Motion passed.

9.B CONSENT RESOLUTIONS

Councilmember Huber noted he wished Council to consider one of the resolutions separately and Mayor Freel asked for direction on this. City Manager Napier addressed the matter. Moved by Councilmember Huber to removed Resolution No. 20-26 from the consent agenda. Seconded by Councilmember Cathey. Motion passed.

The following resolutions were considered, by consent agenda:

RESOLUTION NO. 20-27  
A RESOLUTION AUTHORIZING A CONTRACT FOR  
PROFESSIONAL SERVICES WITH DIGITAL SKYLINES, INC.  
TO PROVIDE TECHNICAL ASSISTANCE TO THE CITY  
REGARDING APPLICATIONS FOR WIRELESS  
COMMUNICATIONS FACILITIES.

RESOLUTION NO. 20-28  
A RESOLUTION AUTHORIZING A CONTRACT FOR  
PROFESSIONAL SERVICES WITH RIVER OAKS  
COMMUNICATION CORPORATION TO PROVIDE  
TECHNICAL ASSISTANCE TO THE CITY REGARDING  
APPLICATIONS FOR WIRELESS COMMUNICATIONS  
FACILITIES.

RESOLUTION NO. 20-29

A RESOLUTION AUTHORIZING A CONTRACT FOR PROFESSIONAL SERVICES WITH SUBLIGHT ENGINEERING PLLC TO PROVIDE TECHNICAL ASSISTANCE TO THE CITY REGARDING APPLICATIONS FOR WIRELESS COMMUNICATIONS FACILITIES.

RESOLUTION NO. 20-30

A RESOLUTION AUTHORIZING A CONTRACT WITH PCN STRATEGIES, INC. TO PROVIDE ADDITIONAL IN CAR/BODY WORN VIDEO EQUIPMENT.

RESOLUTION NO. 20-31

A RESOLUTION AUTHORIZING AN AGREEMENT WITH DAVE LODEN CONSTRUCTION, INC., FOR THE 2020 ROOF REPLACEMENTS, PROJECT NO. 19-032.

RESOLUTION NO. 20-32

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF CASPER AND BANDWIDTH LOGIC INC. FOR A DISTRIBUTED ANTENNA SYSTEM FOR CASPER EVENTS CENTER

Councilmember Hopkins presented the foregoing six (6) resolutions for adoption. Seconded by Councilmember Cathey. Motion passed.

Following resolution read:

RESOLUTION NO. 20-26

A RESOLUTION APPROVING AND ADOPTING THE CONNECTING CROSSROADS LONG RANGE TRANSPORTATION PLAN FOR THE CASPER METROPOLITAN AREA.

Councilmember Bates presented the foregoing resolution for adoption. Seconded by Councilmember Johnson. City Manager Napier provided a brief report. Councilmember Huber moved to amend the Long Range Transportation Plan (LRTP) to delete paragraphs two through four of the East Belt Loop Road section on pages 80-81 of the plan (pages 216-217 of the Council packet), and to replace paragraph four with the following: That given the opposition of the land owners and the high cost of the proposed project, the East Belt Loop Road has been moved to a low priority on the list of long-term projects. Seconded by Councilmember Cathey. Councilmembers Huber and Powell spoke on the matter. Motion to amend the LRTP passed. Council then voted on the LRTP, as amended. Motion passed.



10. MINUTE ACTION– CONSENT

Moved by Councilmember Johnson, seconded by Councilmember Bates, to, by consent minute action:

- 1) acknowledge the receipt of financial disclosure information from City Officials with public fund investment responsibility;
- 2) authorize the purchase of one (1) new 2x4 cab and chassis truck with compressor, crane, and utility body, from Floyd’s Truck Center;
- 3) authorize the discharge of \$53,670.16 of uncollectible accounts receivable balances, aged between the date of July 1, 2014 and December 31, 2014, including more recent estate liquidations and bankruptcies;
- 4) authorize the issuance of a Taxicab Company License to Adesta Spier, d/b/a Oil City Cabs, located at 3030 East 5th Street; and
- 5) authorize appointments to the Council’s Boards and Commissions.

Motion passed.

11. INTRODUCTION OF MEASURES AND PROPOSALS

Councilmembers thanked City staff for their work cleaning up the snow from the recent storm and commended those involved in emergency responses during the storm.

12. ADJOURNMENT

Mayor Freel noted the next meetings of the City Council will be a work session to be held at 4:30 p.m., Tuesday, February 11, 2020, in the Council’s meeting room; and, a regular Council meeting to be held at 6:00 p.m., Tuesday, February 18, 2020, in the Council Chambers. Moved by Councilmember Johnson, seconded by Councilmember Huber, to, by minute action adjourn. Motion passed. The meeting was adjourned at 7:23 p.m.

ATTEST:

CITY OF CASPER, WYOMING  
A Municipal Corporation

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Fleur Tremel  
City Clerk

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Steven K. Freel  
Mayor