

## ORDINANCE NO. 5549

AN ORDINANCE to initiate and establish the process for soliciting and granting non-exclusive Franchise proposals by the City of Alexandria, Virginia, from companies that desire to use the public rights-of-way and occupy the City's streets for the design, installation, provision, operation, maintenance, repair, control, upgrade, construction, and removal of a fiber network for the purpose of providing Telecommunications Services within the City. Telecommunications Services shall mean the offering of telecommunications, *i.e.*, the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, for a fee directly to the public or to such classes of users as to be effectively available directly to the public regardless of the facilities used, but not including cable services.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That the City of Alexandria proposes to grant non-exclusive Franchise(s) in the manner prescribed by law, for use of the public rights-of-way by companies to design, install, provide, operate, maintain, repair, control, upgrade, construct and remove a fiber optic network to provide Telecommunications Services in the public rights of ways of the City of Alexandria, Virginia, as set forth in the following proposed franchise ordinance.

ORDINANCE NO. \_\_\_\_\_

*AN ORDINANCE to grant to \_\_\_\_\_, its successors and assigns, a franchise, under certain conditions, permitting the grantee to use the public rights-of-ways in the City of Alexandria for the design, installation, provision, operation, maintenance, repair, control, upgrade, construction and removal of a fiber network to provide Telecommunications Services in the City.*

THE CITY COUNCIL HEREBY ORDAINS:

*Section 1. That this Franchise is hereby granted to \_\_\_\_\_ hereinafter referred to as "Grantee," its successors and assigns, to permit the Grantee to design, install, provide, operate, maintain, repair, upgrade, construct and remove a fiber network to provide Telecommunications Services, excluding cable, in the public rights of-ways in the City in accordance with the terms and conditions set forth in the Right-Of-Way Franchise Agreement, attached hereto as Exhibit A and fully incorporated herein by reference.*

*Section 2. That said Franchise is awarded to the Grantee after public notice and invitation for bids, as required by law, pursuant to Section 2 of Ordinance No. \_\_\_\_\_, and after the invitation for bids was duly closed and all bids were fully and carefully investigated and evaluated. More than one franchise may be awarded pursuant to this Ordinance.*

*Section 3. That the Grantee be, and hereby is granted a franchise for an initial term of fifteen (15) years, with two five ( 5) year extensions each, for a possible term of 25 years, subject to City Council approval to design, construct, operate, control, provide, install, maintain, repair,*

*upgrade, and remove a fiber network and related infrastructure to provide Telecommunications Services, excluding cable services, in the public rights-of-ways in the City. The Grantee shall strictly comply with the terms of this Ordinance and with the Franchise Agreement, together with all applicable laws and regulations of the City of Alexandria, the Commonwealth of Virginia and the United States, and any regulatory agency having jurisdiction, including, without limitation, with the following conditions:*

- 1. All necessary permits shall be obtained for each and every excavation or installation, including but not limited to boring in and/or under public rights-of-ways or other public places.*
- 2. In the event the relocation, construction, reconstruction, maintenance or repair by the City, Commonwealth of Virginia or the Washington Metropolitan Area Transit Authority of any facilities or services is necessary or desirable, and it is necessary to alter or relocate, either permanently or temporarily, any of the Grantee's property in the public rights-of-ways or other public property in order to accomplish the same, the Grantee shall, after reasonable notice, move, alter or relocate its property at its own cost and expense and should the Grantee fail to comply with such notice, its property may be removed, altered or relocated by the City, Commonwealth or the Metropolitan Area Transit Authority at the cost of the Grantee and without liability for any resulting damage. The Grantee shall do everything reasonably necessary, in a timely manner, to prevent any delays in construction or any project of the City, the Commonwealth or the Washington Metropolitan Area Transit Authority.*
- 3. This Franchise may be assigned or transferred; provided, however, that no such assignment or transfer shall be effective without the prior written consent of the City, which consent shall not be unreasonably withheld.*
- 4. The Grantee will obtain liability insurance to the satisfaction of the City Attorney, which insurance shall name the City as an additional insured.*
- 5. The Grantee will not use the privileges granted by this Franchise to provide the functional equivalent of a cable system or Cable Services as defined in sections 9-3-17 and 9-3-18 of the Code of the City of Alexandria (1950), as amended.*
- 6. The Grantee shall protect all property of the City or any other person during any work of designing, constructing, operating, installing, maintaining, repairing, upgrading or removing its system in or adjacent to the public rights-of-ways or other public place, and shall fully restore, in kind, any property damaged or destroyed during such work.*
- 7. That nothing in this Franchise shall increase or strengthen the rights that other franchisees may have. The City shall have no liability to the grantee for exercising any rights the City may have in general or under its franchises with other franchisees, regardless of the effect of such exercise on the Grantee.*

8. *The Grantee shall remove its property at its own expense at the expiration or termination hereof.*

*Section 4. That the City Manager be and hereby is authorized to execute such documents as may be required to effectuate the Franchise hereby granted.*

*Section 5. That the City Clerk be and hereby is authorized to attest the execution of said documents and to affix thereon the official seal of the City of Alexandria, Virginia.*

Section 2. That as soon as this ordinance has been finally passed, the City Clerk shall cause to be advertised once a week for two successive weeks in a newspaper published in the City of Alexandria, Virginia, a descriptive notice of the proposed ordinance contained in Section 1 of this ordinance, and in addition thereto, shall by such advertisement invite bids for the Franchise(s) proposed to be granted by such proposed ordinance, by publishing with the descriptive notice of such ordinance notice which shall be in substantially the following form:

#### NOTICE

BIDS IN THE FORM OF A PROPOSED AGREEMENT ARE INVITED BY THE CITY OF ALEXANDRIA, VIRGINIA, FOR THE GRANT OF A NONEXCLUSIVE FRANCHISE PERMITTING FRANCHISEE(S) TO USE THE PUBLIC RIGHTS-OF-WAYS IN THE CITY FOR THE DESIGN, INSTALLATION, PROVISION, OPERATION, MAINTENANCE, REPAIR, CONTROL, UPGRADE, CONTRUCTION AND REMOVAL OF A FIBER NETWORK INCLUDING RELATED INFRASTRUCTURE, TO PROVIDE TELECOMMUNICATIONS SERVICES, NOT INCLUDING CABLE SERVICES, IN THE CITY.

THE TERMS AND CONDITIONS FOR THE FRANCHISE ARE ATTACHED TO THE ORDINANCE AND ARE ON THE CITY'S WEBSITE ALEXANDRIAVA.GOV

THE TERM OF THE FRANCHISE IS NEGOTIABLE BUT SHALL BE FOR AN INITIAL TERM OF 15 YEARS WITH UP TO TWO ADDITIONAL EXTENSIONS OF 5 YEARS EACH, SUBJECT TO THE APPROVAL OF THE CITY COUNCIL.

ALL BIDS ARE TO BE SUBMITTED IN WRITING IN THE FORMAT OF THE FRANCHISE AGREEMENT FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS FOR A FIBER NETWORK, INCLUDING RELATED INFRASTRUCTURE, TO PROVIDE TELECOMMUNICATIONS SERVICES, NOT INCLUDING CABLE SERVICES ATTACHED HERETO AS EXHIBIT A AND ADDITIONAL DOCUMENTS REQUIRED BY THE TERMS AND SPECIFICIATIONS. THE BID DOCUMENTS ARE TO BE SENT TO LALIT SHARMA BY E-MAIL LALIT.SHARMA@ALEXANDRIAVA.GOV OR MAIL 301 KING STREET, SUITE 4100, ALEXANDRIA, VA 22314 BEFORE 3 PM EASTERN STANDARD TIME, JULY 15, 2024, AT THAT TIME BIDS SHALL BE PUBLICLY OPENED AND ANNOUNCED.

IN ADDITION, THE IDENTIFICATION OF THE BIDDERS SHALL BE ANNOUNCED IN OPEN SESSION OF THE CITY COUNCIL FOR THE CITY OF ALEXANDRIA IN THE COUNCIL CHAMBERS, CITY HALL, 301 KING STREET, SECOND FLOOR, ALEXANDRIA, VIRGINIA, 22314, ON OCTOBER 8, 2024 AT 7 P.M EASTERN TIME. AT THE OCTOBER 8, 2024 MEETING, THE MAYOR SHALL REFER THE BIDS RECEIVED TO THE CITY MANAGER AND/OR CITY STAFF TO EVALUATE, REVIEW AND CONSIDER IN THE MANNER PRESCRIBED BY LAW, INCLUDING THE SELECTION OF, AND NEGOTIATION OF FRANCHISE AGREEMENT(S) WITH ONE OR MORE PREFERRED, RESPONSIVE BIDDER(S). AS SOON THEREAFTER AS PRACTICABLE, THE CITY MANAGER AND/OR STAFF WILL RECOMMEND THE SUCCESSFUL BIDDER(S) AND PRESENT THE NEGOTIATED FRANCHISE AGREEMENT(S), FOR CONSIDERATION AND APPROVAL BY CITY COUNCIL.

THE CITY RESERVES THE RIGHT IN THE CITY MANAGER'S SOLE DISCRETION TO REJECT ANY AND ALL BIDS; TO TERMINATE NEGOTIATIONS AT ANY STAGE OF THE SELECTION PROCESS, AND TO REISSUE THE REQUEST FOR BIDS WITH OR WITHOUT MODIFICATION.

THE DESCRIPTIVE NOTICE OF THE PROPOSED FRANCHISE ORDINANCE IS AS FOLLOWS:

The proposed ordinance will grant a nonexclusive franchise or franchises, under certain conditions, permitting the grantee to use the public rights-of-ways in the City of Alexandria, for the design, installation, provision, operation, maintenance, repair, control, upgrade, construction and removal of a fiber network to provide Telecommunications Services, not including cable services. (Complete text of the ordinance is available in the office of the city clerk).

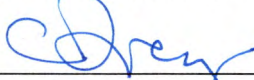
Section 3. That this Ordinance shall become effective on the date and at the time of its final passage.

  
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**JUSTIN M. WILSON**  
Mayor

ATTEST:

  
\_\_\_\_\_  
Gloria A. Sitton, CMC      City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Cheran Cordell Ivery City Attorney

Final Passage: June 15, 2024