

TERMS AND SPECIFICATIONS FOR PROPOSALS FOR BROADBAND FRANCHISE IN THE CITY OF ALEXANDRIA

The City of Alexandria is considering granting a franchise agreement (Franchise) to provide for the safe, orderly, and efficient use of the public rights-of-way of the City of Alexandria (Public Rights-of-Way) as the same now exist, or may hereafter be laid out, for the installation, maintenance, operation, and control of a fiber-to-the premises network (FTTP Network) in the Public Rights-of-Way, for the purpose of offering broadband Internet access service to City residents and businesses.- Because the term of the Franchise will be in excess of five (5) years, the City is advertising bids in accordance with Section 15.2-2101 of the Code of Virginia (1950), as amended.

Interested parties should submit ten (10) complete copies of their bid, in writing, addressed to the City of Alexandria, ATTENTION: Laura B Triggs, Deputy City Manager, 301 King Street, Room 4300, Office of the City Manager, Alexandria, Virginia, . Bids, addressed as indicated above, may be hand-delivered to the City of Alexandria, 301 King Street, Office of the City Manager Alexandria, Virginia 22314. **ALL BIDS ARE DUE ON OR BEFORE 12:00 P.M., NOON, THURSDAY, DECEMBER 30, 2021.**

After the receiving and opening of bids, the City shall consider the bids. After consideration of the bids, the City will make a determination of which, if any, of the bids to accept, at which time the City Council may hold a public hearing to adopt an ordinance granting such franchise to the selected bidder. The City reserves the right to reject any and all bids. **The bid instructions are available from the City of Alexandria Office of the City Manager at the address listed above and may be obtained online from the City's website: alexandriava.gov/Broadband.**

A copy of the full text of the proposed ordinance is on file in the office of the City Clerk.

FRANCHISE PROPOSAL INSTRUCTIONS

AN ORDINANCE GRANTING A BROADBAND FRANCHISE AGREEMENT FOR USE OF THE PUBLIC RIGHTS-OF-WAY TO DESIGN, CONSTRUCT, INSTALL, OPERATE, MAINTAIN, REPAIR, UPGRADE, REMOVE AND OPERATE A FIBER TO THE PREMISES BROADBAND NETWORK FOR OFFERING BROADBAND INTERNET ACCESS TO CITY OF ALEXANDRIA RESIDENTS AND BUSINESSES AND RELATED INFRASTRUCTURE, WITHIN AND THROUGH THE CORPORATE LIMITS OF THE CITY OF ALEXANDRIA.

CONTENT OF BID PACKAGE

Each bid package must contain, at a minimum, the following written information with documentation suitable for evaluation:

1. **Completed Bid Form.** The respondent shall complete the Bid Form, attached hereto as Exhibit A, setting forth the information requested for the respondent's offer, including the proposal for the use of the franchise area. Completion of the Bid Form signifies acceptance of the terms outlined in the General Terms of the Franchise set forth in Exhibit B.

SCOPE OF SERVICES/ QUALIFICATIONS

The successful bidder shall demonstrate that it is authorized to transact business in the Commonwealth of Virginia and has successfully constructed and installed a FTTP Network and successfully delivered and provided broadband services to retail customers. The FTTP Network to be constructed in the City under the terms of the Franchise shall be referred to as the Broadband Network.

The successful bidder shall demonstrate through current and past similar projects, the professional, financial, and technical ability to install and maintain the Broadband Network. The successful bidder must also demonstrate that construction, installation and deployment of the Broadband Network will serve the public interest.

As a precondition to the grant, the successful bidder shall enter into a franchise agreement prepared by the City, which sets forth the conditions for the construction, maintenance, and operation of the Broadband Network. The franchise agreement shall further set forth, among other things, that the franchise is non-exclusive, subject to the City's prior rights, and that the successful bidder must maintain liability insurance and hold harmless and indemnify the City.

CONSTRUCTION, OPERATION, AND MAINTENANCE OF THE BROADBAND NETWORK

In connection with the above, the successful bidder shall be solely responsible for furnishing all capital, labor, materials, equipment, appurtenances, incidentals, and all other items necessary to construct, operate, and maintain the Broadband Network. The Franchise Agreement will not grant bidder use of any City-owned structures.

All engineering and all other costs, fees or other expenses, including, but not limited to necessary permits related to installing and maintaining the Broadband Network and any costs for advertising the notice of the public hearing for the franchise agreement, shall be the sole responsibility of the successful bidder.

The successful bidder shall develop construction plans showing the location of the Broadband Network. The plans shall be submitted to the City of Alexandria for approval. Franchisee shall not construct or install the Broadband Network without first obtaining the City of Alexandria's approval of the plans. Franchisee shall construct and install the Broadband Network in strict accordance with the plans approved by the City of Alexandria. Franchisee shall make available to the City of Alexandria, at no cost, a copy of any applicable construction plans for the Broadband Network

OTHER INFORMATION

Bond.

The successful respondent shall be required to execute a bond, with good and sufficient security, in a sum to be determined by the City, pursuant to Section 15.2-2104 of the Code of Virginia (1950), as amended.

PROCESS

All proposals must be submitted to the City Manager's Office by 12:00 noon, Thursday December 30, 2021. The City of Alexandria reserves the right to reject any and all proposals, to proceed with a specific respondent or respondents, or to take any action that the City of Alexandria determines to be in the best interest of the City of Alexandria. The City of Alexandria also reserves the right to abandon the proposed franchise after the award of the bid to the selected respondent but before entering a franchise, in the event the City elects for any reason whatsoever not to grant the franchise.

ATTACHMENTS:

Exhibit A: Bid Form

Exhibit B: General Terms of Franchise

EXHIBIT A
BID FORM

In compliance with and subject to this Invitation for Bids, which is made pursuant to Virginia Code § 15.2-2101, and the documents herein specified, all of which are incorporated herein by reference, the undersigned bidder agrees to furnish all expertise, labor, equipment, materials, and professional services necessary to construct, operate, and maintain the Broadband Network

Failure to complete all parts of this Bid Form and furnish Bid Submittals A and B as requested, may result in rejection of said bid. One (1) original, so marked, and ten (10) copies of the entire bid must be submitted. Completion of this Bid Form signifies acceptance of the terms outlined in the General Terms of the Franchise set forth in Exhibit B.

1. BIDDER INFORMATION:

Name: _____

Address: _____

I certify that the information provided herein is true and complete and that the bidder is legally qualified to perform the work and services included in this bid.

Bidder: _____

By: _____

Title: _____

2. BID SUBMITTALS

Bidder shall complete and enclose with its Bid, the following bid submittals. Failure to do so may result in rejection of bid in its entirety:

Submittal A - Statement of Qualifications: Proof that the respondent is authorized to transact business in the Commonwealth of Virginia and is duly authorized to provide, construct and install an FTTP Network capable of providing 1Gbps broadband Internet services in the City.

Submittal B - Plan for Improvements: A written plan for the construction, maintenance, and operation of the Broadband Network.

----- **END OF BID FORM** -----

EXHIBIT B

GENERAL TERMS OF FRANCHISE

It is anticipated that the successful respondent will enter a twenty-year (20) year franchise term with the City. The franchise may be renewed for three additional five-year terms. At the expiration of the thirty-five (35) year extended term; a new franchise agreement will have to be negotiated and entered into between the parties, in accordance with applicable law. The successful respondent shall be responsible for the construction, operation, and maintenance of the Broadband Network. Neither the City nor the successful bidder will be obligated to satisfy the terms set forth herein unless the successful bidder files its unconditional acceptance of the terms and provisions of the Franchise Ordinance upon its passage, which shall include additional terms or conditions deemed necessary by the City and other necessary and/or appropriate definitive agreements executed in the furtherance thereof.

FRANCHISOR: The City of Alexandria

FRANCHISEE(S): To be determined

CONSTRUCTION: Install, maintain, and operate a Fiber to the Premises Network in the Public Rights-of-Way for the purpose of offering Broadband Internet access service to its customers.

FEE REVENUE: Provide a franchise fee of 3 percent of Gross Broadband Revenues (gross broadband revenues is defined as any and all consideration of any kind or nature, including cash, credits, property, and in-kind contributions (services or goods) arising from or attributable to franchisee's provision of broadband services over the Broadband Network within the City to subscribers).

TERM- 20- year term for use of the Public Rights-of-Way, with an option for the Franchisee to request three (3) consecutive renewal terms of five (5) years each.

DIGITAL EQUITY - The Franchise shall include provisions to provide services to include:

- A. Providing Wi-Fi locations at a proposed list of City parks and recreation centers
- B. Provide a plan for how to dedicate funding and services to the City's affordable housing units
- C. Provide access to community partners who provide assistance to residents in who have limited or no access to broadband, and
- D. Provide Wi-Fi in City parks where broadband services may be limited
- E. Providing service for a proposed list of non-profit organization who provide services to Alexandria residents

SPEED -The Franchisee shall offer Broadband Services with a minimum speed tier of up to 1 (one) symmetrical gigabit per second (Gbps) to residential and other end users within the City. Franchisee may also offer other speed tiers of Broadband Services.

CONSTRUCTION - Franchisee shall submit a construction plan no later than 60 days after the effective date of a Franchise Agreement to include maps of proposed routes and a proposed plan for construction completion.

Construction shall be at Franchisee's sole cost and expense (including the cost of permit fees, as applicable). The City shall pay no construction costs. The franchisee shall be responsible for obtaining right of way access

Franchisee shall utilize microtrenching methods at a depth of no less than 12 inches and describe its proposed microtrenching construction techniques and relocate lines promptly upon City's request.

City will retain a third-party inspector to verify proper construction and to reinspect the structure. For this review, franchise shall submit detailed engineering documents for each structure showing the impacts and ways the structures will be protected from damage.

Franchisee shall warrant all fill material and sealer material and any other restoration work for two years.

Franchisee shall provide a process for safeguarding utilities at depths shallower than 12 inches.

The franchisee shall be responsible for obtaining right of way access for non-City right of ways.

Traffic loops at intersections are shallow installations; franchisee's design shall provide ap play to protect such existing infrastructure.

Pavement patches shall be color-matched in places whether the pavement surface is concrete.

Franchisee shall provide an action plan for cases in which third party or City utilities are damaged. This plan shall state in detail the actions taken to fix the issue and return the utility to full operational status.

Franchisee shall clarify how dust impacts from saw cutting will be managed during construction.

Franchisee shall retain a utility marking company to locate and map franchisee's facilities. Franchisee shall direct its utility locator to mark lines when VA811 requests are made.

Franchisee shall describe methods for avoiding damage to stormwater BMP structures and trees with root structures located under the curb and gutter/roadway.

Franchisee construction plan shall be in compliance with Virginia Department of Transportation and City specific traffic, bike and pedestrian construction and work zone requirements.

If required by Virginia Department of Environmental Quality (VDEQ), Franchisee shall file and Obtain VDEQ approval of its standard erosion and sediment spec plans.

COVERAGE - Franchisee's Broadband Network shall physically pass all public residential and business addresses that can be accessed from the public right of way within the City of Alexandria.

COMPLETION OF SYSTEM - Franchisee to provide a surety in a form and amount satisfactory to the City.

COMMUNICATION - Franchisee shall submit a communication plan for insuring citizens are timely notified of all construction.

CUSTOMER SERVICE - Franchisee shall provide a plan for providing customer service to residents who select service from franchisee.

MAINTENANCE OF SYSTEM Franchisee shall maintain the Public Rights-of-Way and the Broadband Network, and provide proposed standards for maintenance that meet the approval of the City. The Franchise shall also address the restoration of the Public Rights-of-Way and any property of the City or any third party damaged by the Franchisee's activities, and the removal of the Franchisee's facilities at the end of the term.

TRANSFER, ASSIGNMENT AND SUBLETTING: The Franchisee shall not assign or sublet any of its rights or duties under the franchise agreement or any interest it may have herein to an external party without the prior written consent of the City.

INSURANCE: The Franchisee shall obtain and maintain, or cause to be maintained, at all times from the effective date of the Franchise, insurance coverage(s) in type(s) and amount(s) as shall be determined by the City. In addition to workers' compensation insurance, the insurance coverage required to be maintained pursuant to the Franchise, shall include, **but not be limited to** commercial general liability insurance and employers' liability insurance.

AMENDMENTS: Pursuant to Section 15.2-2105 of the Code of Virginia (1950), as amended, the City shall not grant any modification to the Franchise which shall extend the time or territory of such Franchise until the provisions of §§ 15.2-2101 through 15.2-2104 have been followed.

SITE INSPECTION: Submission of a bid on this project shall imply that the bidder has examined the sites of the work upon which it is bidding, has verified any measurements herein, and has satisfied itself as to existing and probable conditions under which it will be obligated to perform its work.

SUPERVISION: Franchisee shall supervise and direct the work, using its best skill and attention. The successful bidder shall be solely responsible for all work means, methods,

techniques, sequences and procedures and for coordinating all portions of the work subject to the franchise agreement.

GOVERNING LAW: The franchise agreement shall be governed, interpreted and enforced by the laws of the Commonwealth of Virginia without regard to its conflict of laws principles.

VENUE: Unless otherwise required by law, any action arising out of or related to the franchise agreement or the performance obligations thereunder shall be brought in the Circuit Court for the City of Alexandria, Virginia or, if applicable, the United States District Court for the Eastern District of Virginia, Alexandria Division.

ACCESS TO WORKSITE: The City, its officials, agents, employees and representatives shall at all times have access to the property subject to the franchise agreement, regardless of whether the Franchisee is in preparation or progress of the permitted use, and the successful bidder shall provide safe facilities for such access and inspection by the City.

INDEMNIFICATION/HOLD HARMLESS CLAUSE: The successful bidder, its agents, representatives, affiliates, subsidiaries, and assigns shall indemnify, defend and hold the City, its departments, its officials, employees, agents and representatives harmless against any and all claims under any theory of liability, including but not limited to, third- party claims, expenses, costs, losses, and damages, reasonable attorney fees, personal injury, property damage or death which arises out of or in connection with the franchise agreement or the successful bidder's shared use of the property subject to the franchise agreement.

REMEDIES: The Franchisee shall provide a form of surety satisfactory to the City, to secure the proper performance of construction and maintenance and against other potential defaults. The Franchise shall also specify procedures for enforcement of the agreement and resolution of disputes, and remedies for default, to include, without limitation, termination and the removal of facilities.