City of Alexandria

301 King St., Room 2400
Alexandria, VA 22314

Legislation Details (With Text)

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Title:	Introduction and First Reading. Consideration. Passage on First Reading of Ordinances to Grant Right-Of-Way Franchises to Ting, Inc., and Lumos Telephone, Inc. For Broadband Services.		
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Attachments:	1. 22-0748_Cover sheet Lumos Ordinance, 2. 22-0748_Lumos Ordinance FINAL, 3. 22-0748_Lumos ROW Franchise Agreement FINAL 02_14_22, 4. 22-0748_Cover sheet Ting Ordinance, 5. 22-0748_Ting Ordinance FINAL, 6. 22-0748_Ting ROW Franchise Agreement FINAL 02_14_22, 7. 22-0748_Broadband Franchise Update Presentation Feb 2022		

Date	Ver.	Action By	Action	Result

City of Alexandria, Virginia

MEMORANDUM

DATE: FEBRUARY 15, 2022

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES F. PARAJON, CITY MANAGER /s/

DOCKET TITLE:
Introduction and First Reading. Consideration. Passage on First Reading of Ordinances to Grant Right-Of-Way Franchises to Ting, Inc., and Lumos Telephone, Inc. For Broadband Services.

ISSUE: Consideration of two proposed ordinances to grant a broadband franchise to use the public right-of-way and other City property, for the design, construction, installation, maintenance, repair, upgrade, removal, and operation of a broadband network in the City of Alexandria to:

1. Ting, Inc., a wholly owned subsidiary of Tucows Inc.; and
2. Lumos Telephone, Inc

RECOMMENDATION: That City Council consider the franchise ordinances on first reading and schedule then for second reading, public hearing and final passage on Saturday, March 12, 2022.

DISCUSSION: On November 13, 2021, City Council adopted an ordinance to solicit proposals for a franchise to use the City's right-of-way to construct and provide broadband services to City residents. On January 11, 2022, City Council announced that there were four companies who responded to the City's request for proposal for a broadband network. These broadband companies are Lumos

Telephone, Inc. ("Lumos"), National American Tower Company ("NATC"), Shentel, and Ting, Inc. ("Ting"). City Council referred the proposals to staff for further review of the proposals. Staff completed its review and determined that three of the companies' proposals met all the terms and conditions of the solicitation.

The proposals from Lumos, Shentel, and Ting met all the terms and conditions of the solicitation. Of these three, Lumos and Ting have agreed to continue with a franchise agreement. After discussion about the specific terms of the franchise agreement, Shentel decided not to continue with the process. The proposal from NATC focused on using a formal public private partnership (P3) process instead of the current right-of-way franchise proposal process being considered. The City chose to use a franchise process given based on the interest and ability of vendors to utilize the City's right-of-way. Since the City did adopt an ordinance permitting it to consider P3 options, NATC could respond if the City determines a need to invest more City resources and expertise to provide broadband services. Based on this information, City staff are recommending that the Council award broadband franchise agreements to Ting and Lumos. Accordingly, there are separate ordinances for each company's proposed franchise.

This franchise process had two primary goals:

1. To provide options for City residents in their choice of internet access by building a fiber network that passed all City addresses in the public right-of-way, and
2. To provide equitable access to the internet with guaranteed speed and financial support.

By law, these agreements are non-exclusive franchises that authorize both companies to construct and maintain a broadband system using the City's right-of-way, as allowed by state and federal law. If a franchise award is made in March, Ting and Lumos have indicated that construction preparation will begin in the spring.

The negotiated franchise ordinances are essentially the same and include the following key terms as requested in the proposal process:

- A three percent franchise fee based on gross revenues as payment to the City for use of its right-of-way,
- Equitable digital services,
- Use of microtrenching that complies with City, state and federal standards to minimize street and traffic disruptions for a significant portion of the construction,
- Investment of financial resources for costs of construction,
- A comprehensive community communication plan to ensure residents are notified of construction,
- Capacity for 1 gigabit upload and download speeds,
- 24/ 7 customer support,
- A provision for damages or payments for non-completion.

Equitable Digital Services

While most addresses in the City have access to some type of broadband, this franchise agreement includes several important provisions to support equitable access to those who may have access to the physical broadband network but may not have the financial means to make use of that access. This agreement includes provisions that provide:

- Free, state-of-the-art, fiber-fed Wi-Fi service in several City parks and community centers that are accessible to residents and visitors with a focus on parks where Wi-Fi in the home access is less affordable.
- Services to several non-profit organizations operating in the City of Alexandria and providing services to vulnerable populations in the City of Alexandria for eligible organizations that provide direct services to residents of City.
- Services to residents of affordable housing at equivalent speeds and service levels to other residents at the same multiple dwelling units in a network of approximately 5 percent of multi-dwelling unit properties identified by City as containing eligible affordable housing units.
- A network to new eligible affordable housing units constructed after the effective date of this agreement with subsidized rates for at least 5 years.

Franchise Conditions

The franchise outlines conditions for constructing the broadband network, including undergrounding requirements, use of microtrenching, community notification prior to commencing construction activities in neighborhoods and requires Ting and Lumos, at their own cost and expense, to replace, repair, or restore any damaged property to its prior condition.

The franchises commence upon execution of the agreement by both parties within 60 days following final passage of the ordinance. The agreement includes a fixed franchise term of 20 years. The franchisee shall have the option, subject to City Council approval, to renew the franchise for three consecutive renewal terms of five years each. The franchise requires notification to the City whenever there is a change in the control or transfer of the franchise.

In response to feedback from City Council and the City's IT Commission, both companies have also agreed to provide other services to the City not included in the solicitation including language access services, ensuring that speeds are not unliterally reduced or "throttled" and have expressed interest in possibly leasing the City's second conduit as part of their construction plans.

FISCAL IMPACT: Staffing costs are estimated at up to $1 million during the multi-year construction period that will be partially offset by permit fees. These costs include permitting reviews, community engagement, and ensuring that the network is completed in accordance with City standards and community expectations. Because of the focus on providing equitable access, these costs have been included in the American Rescue Plan Act of 2021 (ARPA) funding proposals.

ATTACHMENTS:
1. Cover Sheet - Proposed Franchise Ordinance for Lumos Telephone, Inc.
2. Proposed Franchise Ordinance for Lumos Telephone, Inc.
3. Right-of-Way Agreement for Lumos Telephone, Inc.
4. Cover Sheet - Proposed Franchise for Ting, Inc.
5. Proposed Franchise Ordinance for Ting, Inc.
6. Right-of-Way Agreement for Ting, Inc.
7. Presentation on Broadband Franchise Update

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