



Legislation Text

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City of Alexandria, Virginia

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MEMORANDUM

**DATE:** NOVEMBER 6, 2019

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** JOANNA C. ANDERSON, CITY ATTORNEY /s/  
KAREN SNOW, ASSISTANT CITY ATTORNEY /s/

**CC:** MARK B. JINKS, CITY MANAGER /s/

**DOCKET TITLE:**

Consideration of a Five-Year License Agreement with Crown Castle Fiber LLC., to Authorize Existing Telecommunications Facilities and to Authorize the Installation of Conduits and Fiber Optic Cables in the City of Alexandria's Public Rights of Ways but not for Cable Television.

**ISSUE:** Consideration of a five-year license agreement with Crown Castle Fiber LLC, to authorize its existing conduits and fiber optic cables which it acquired from Lightower Fiber Networks II, LLC., to remain in the City of Alexandria's public rights-of-ways to allow Crown Castle to provide telecommunications systems, not cable television services, in the City of Alexandria ("City").

**RECOMMENDATION:** That City Council set this matter for a public hearing on Saturday, November 16, 2019, and after hearing public testimony approve the attached five year license agreement with Crown Castle, and authorize the City Manager to execute the license agreement and to take any other actions that are necessary to implement the license agreement.

**DISCUSSION:** The City has an existing license agreement with Lightower Fiber Networks, II, LLC., dated April 23, 2015, for the use of the City's rights of ways to operate a telecommunications system and delivery of telecommunications services. Crown Castle acquired Lightower in 2017, and, as a result of the acquisition, Lightower became an indirect wholly owned subsidiary of Crown Castle. Crown Castle now seeks to become the licensee of the telecommunications routes in the City previously owned by Lightower. These routes are the following:

1. Goodwin House, 2800 Fillmore Street. This is approximately 250 feet of cable that was granted in 2015;
2. Taylor Street Route. This is a 238 foot build to serve 2780 Taylor Street, which was granted in about June 2016.
3. North Beauregard Street Route. This is an additional 235 foot build which will start on the corner of North Beauregard Street and North Mark Center Drive and is shown on the Map attached to the License Agreement as Exhibit 1.

The significant provisions of the proposed agreement are summarized below.

The term of the agreement is for five years and will run from December 1, 2019 through November 30, 2024. It is not renewable. However, the agreement gives Crown Castle the right to negotiate with the City for a new license at the conclusion of the agreement.

Second, as compensation for use of the public rights-of-way the City will receive from Crown Castle either an annual payment of \$3.60 per linear foot or approximately \$2,818 if it can not certify that it has a customer using access lines in the Commonwealth or if it can certify, it will remit to the Commonwealth the statutory right-of-way fee imposed under Virginia Code § 56.468.1 and City Code § 5-2-160, et seq., which is imposed on end users in the City. The statutory right-of-way fee is calculated annually by the Virginia Department of Transportation (“VDOT”) on a state-wide basis, and allocated to each locality based on a formula which accounts for the linear footage of conduit and number of users in the locality. The current fee is \$ 1.20 per access line for the period of July 1, 2019 through June 30, 2020.

Third, as discussed above, the agreement requires Crown Castle to submit an Annual Operations Plan to T&ES for each of the five years covered by the agreement. The operations plan that requires Crown Castle to describe all the activities to install the conduit and to pull cable that Crown Castle intends to undertake in the public rights-of-way during the twelve month period covered by the plan, the sites where any activity in the public rights-of-way will occur and a tentative timetable. The director of T&ES must review the plan and determine whether the public rights-of-way upon which the construction is planned are appropriate sites for the proposed activity. These operations plans are intended to enable T&ES to coordinate Crown Castle’s activities, if any, with other planned construction in the City streets and public rights-of-way, thereby minimizing the disruption and inconvenience attendant to such work.

Fourth, the agreement requires Crown Castle prior to undertaking any specific project within the rights-of-way to submit to T&ES, a plan which, among other things, will (i) identify the location of the project, (ii) describe the equipment to be installed and the techniques to be used, (iii) state the start and end dates, (iv) propose a traffic control plan and (v) verify that Crown Castle has or will obtain all necessary approvals from other governmental entities including departments or agencies of the City.

Fifth, the agreement provides that the City can require Crown Castle to remove or relocate, at Crown Castle’s expense to the extent permitted by law, any conduits, cables or other equipment when City staff has determined that the equipment interferes with or disturbs the operation, improvement, repair or maintenance of the rights-of-way or of other utility services.

Sixth, the agreement requires Crown Castle to obtain permits from the City for any maintenance work and to repair all damages resulting from the work.

Seventh, the agreement provides that, upon its termination or non-renewal, Crown Castle will remove all of its conduits, cable and other equipment from the City's rights-of-way.

Finally, the agreement provides that Crown Castle must maintain adequate insurance to protect the City and any residents against claims arising from the system or the company's work on the system.

We will be pleased to answer any questions that you may have about this matter.

**ATTACHMENTS:**

1. License Agreement
2. City Alex Map