

ORDINANCE NO. 5421

AN ORDINANCE to grant to Lumos Inc, 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, construction, operation, installation, maintenance, repair, upgrade, removal and operation of a fiber to the premises broadband network for offering broadband internet access and related infrastructure in the City.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That this Franchise is hereby granted to Lumos, Inc hereinafter referred to as "Grantee," its successors and assigns, to permit the Grantee to design, construct, install, maintain, repair, upgrade, remove and operate a fiber to the premises broadband internet access network and related infrastructure in the public rights-of-ways in the City in accordance with the terms and conditions set forth in the Franchise Agreement for Use of the Public Rights-of-Way to Provide Broadband Internet Service, 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. 5387, and after the invitation for bids was duly closed and all bids were fully 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 20 years with automatic extension of up to 3 additional periods of 5 years each, to design, construct, install, maintain, repair, remove and operate specified broadband facilities and related infrastructure 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 for Use of the Public Rights-of-Way to Provide Broadband Internet Service (Attachment 3), 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, the 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 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 will 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 any 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 6. That this ordinance shall become effective on the date and at the time of its final passage.

Adopted: March 12, 2022

JUSTIN M. WILSON
Mayor

