

ORDINANCE NO. 356 (04-08-2020)

AN ORDINANCE OF THE CITY OF TAYLOR MILL IN KENTON COUNTY, KENTUCKY, AWARDED A NON-EXCLUSIVE FRANCHISE TO MCI METRO ACCESS TRANSMISSION SERVICES LLC D/B/A VERIZON TRANSMISSION SERVICES FOR AN INITIAL TERM OF TEN (10) YEARS FOR A TELECOMMUNICATIONS FRANCHISE AGREEMENT AND FOR THE CONSTRUCTION, PLACEMENT, MAINTENANCE AND OPERATION OF A TELECOMMUNICATIONS SYSTEM AND FACILITIES FOR THE TRANSMISSION, DELIVERY, PROVISION AND SALE OF TELECOMMUNICATIONS SERVICES ALONG, IN, ON, OVER AND UNDER THE PUBLIC RIGHT-OF-WAY WITHIN THE CITY OF TAYLOR MILL, KENTUCKY (“CITY”); ALL UPON THE TERMS, CONDITIONS AND COVENANTS CONTAINED IN THE WIRED TELECOMMUNICATIONS FRANCHISE AGREEMENT.

WHEREAS, Ordinance No. 352, adopted by the City Commission on November 13, 2019 (the “**Establishment Ordinance**”), provided for the creation, establishment and sale of a non-exclusive Franchise, for a term of twenty (20) years, to acquire, construct, install, maintain, repair, operate, use and enter upon, in the public right-of-way of the City of Telecommunications System, Facilities, and Franchise Poles (as such terms and other capitalized terms hereinafter are defined in the Franchise Agreement referenced below) and related equipment and appurtenances for the transmission, distribution, delivery and sale of Telecommunications Services from points either within or without the corporate limits of this City, to this City and the inhabitants thereof, and from and through this City to persons, corporations and municipalities beyond the limits thereof, and for the sale of Telecommunications and other related Telecommunications purposes; and

WHEREAS, the said Establishment Ordinance, as required by Section 164 of the Kentucky Constitution, also established a sealed bid process which includes advertising the invitation for bids, and awarding the Franchise to the successful bidder(s);

WHEREAS, after publication of said advertisement on January 31, 2020, the City received a timely bid from MCImetro Access Transmission Services LLC d/b/a Verizon Transmission Services (“**Franchisee**”) to acquire said telecommunications franchise; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF TAYLOR MILL IN KENTON COUNTY KENTUCKY, AS FOLLOWS:

SECTION I

Based upon the foregoing recitals and acting in accordance with Sections 163 and 164 of the Constitution of the Commonwealth of Kentucky and applicable Kentucky law, and subject to the terms, conditions and covenants set forth in that certain Wired Telecommunications Franchise Agreement for Telecommunications Services and Facilities in the Right-of-Way, a copy of which is attached hereto and made a part hereof as “Attachment A” (hereinafter the “**Franchise Agreement**”), that a non-exclusive Telecommunications Franchise created by this Ordinance and the Establishment Ordinance be, and it hereby is,

granted and awarded to Franchisee and its permitted assigns, for the cost of advertising and the sale of a Telecommunications System and Telecommunications Services Franchise, plus the Application Fee, the Franchise Fee and such other compensation, all as set forth in the Franchise Agreement. The Franchise Fee is hereby established at three percent (3%) of the Gross Receipts and shall be paid, together with other compensation and payments due thereunder, on a quarterly basis within thirty (30) days after the expiration of each calendar quarter, all as provided in the Franchise Agreement. Should the City exercise said right to increase the Franchise Fee, the City shall receive a monthly payment of up to five (5) percent of Gross Receipts per month received by Franchisee from (1) Franchisee's sale of Telecommunications Services (which includes businesses, industrial facilities and dwellings) inside the City's corporate limits and (2) all other sources as provided in the Franchise Agreement.

The Franchise granted and awarded in this Ordinance only authorizes Franchisee to provide the Telecommunications Services specifically authorized in the Franchise Agreement and set forth in Exhibit B thereto. Neither this Ordinance nor the Franchise Agreement authorizes Franchisee to provide Commercial Mobile Radio Services, Personal Communication Services, Multichannel Video Services, or Cable Services. Further, the term Facilities excludes "small cell towers" "small cell systems", "wireless communications facilities," "cellular antenna towers," and certain "transmission equipment," all as provided in the Franchise Agreement.

SECTION II

The term of the Franchise granted in this Ordinance and as provided in Section 6 (Term) of the Franchise Agreement shall be for a period of Ten (10) years with an option for two (2) five (5) year extensions.

SECTION III

All prior ordinances, municipal orders, or policies or parts thereof in conflict herewith, are to the extent of such conflict, hereby repealed.

SECTION IV

That the mayor of the City is hereby authorized to sign the Franchise Agreement to memorialize the sale and award by the City to the Franchisee of said Franchise subject to the terms and conditions reflected in the Establishment Ordinance and this Ordinance. Further, the City Administrative Officer is hereby authorized to negotiate such changes to the Franchise Agreement as he or she may deem necessary or desirable, so long as such changes do not affect the overall substance of this Ordinance and the Franchise Agreement.

SECTION V

That the statements set forth in the Preamble to this Ordinance are hereby incorporated in this Ordinance by reference, the same as if set forth at length herein.

SECTION VI

All rights and privileges granted in this Ordinance and the Franchise Agreement are, at all times during the aforesaid term, subject to all lawful exercise of the police and legislative powers of the City. Franchisee shall comply with all applicable laws, ordinances and regulations which the City has adopted or shall adopt, applying to the public generally and to other franchisees, licensees, or grantees.

SECTION VII

That if any section, sentence, clause or phrase of this Ordinance is held to be unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remainder of the Ordinance.

SECTION VIII

This Ordinance shall be in effect when read, passed and published in summary pursuant to K.R.S. 83A.060 (9). This Ordinance may be published in abbreviated form.

ADOPTED THIS _____ DAY OF _____, 2020.

1st Reading: March 11, 2020.

2nd Reading: April 8, 2020. Vote: 5 Yes, 0 No

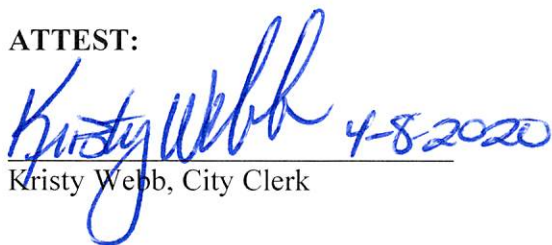
APPROVED



DANIEL L. BELL, Mayor
City of Taylor Mill

DATE: 4-8-2020

ATTEST:



Kristy Webb, City Clerk