



TOWN COUNCIL WORK SESSION

Monday, July 20, 2020 @ 7:00pm

Town Hall Conference Room

1. Stonewall Bridge Epoxy Application Bid – *Director of Finance*
2. Review of FY20 Revenues – *Director of Finance*
3. Franchise Agreement for Fiber Optics – Lumas Networks – *Town Attorney*
4. Resolution to the Warren County School Board – *Interim Town Manager*
5. Social Media\Website\PIO Office Review – *Public Information Officer*
6. UFAC Vacancy
7. Open Discussion
8. CLOSED MEETING – Personnel

Motion to Go Into Closed Meeting

I move that Town Council go into Closed Meeting to discuss and consider the assignment, appointment, promotion, performance and salaries of specific public officers, appointees, or employees of the Town, pursuant to Section 2.2-3711. A. 1. of the Code of Virginia.

Motion to Certify Closed Meeting at its Conclusion *[At the conclusion of the Closed Meeting, immediately re-convene in open meeting and take a roll call vote on the following:]*

I move that the Mayor and Council certify that to the best of each member's knowledge, as recognized by each Mayor and Council member's affirmative vote, that only such public business matters lawfully exempted from Open Meeting requirements under the Virginia Freedom of Information Act as were identified in the motion by which the Closed Meeting was convened were heard, discussed or considered in the Closed Meeting by the Mayor and Council, and that the vote of each individual member of the Mayor and Council be taken by roll call and recorded and included in the minutes of the meeting of Town Council.

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Work Session Agenda Form

Item # 1

DATE: 7/20/20

AGENDA ITEM: Stonewall Bridge Epoxy Application Bid

SUMMARY: The Town received bids for the Stonewall Bridge Epoxy Application on June 22, 2020. The bids received included additional alternate items such as: spall repair, expansion joints, sidewalk, and vegetation removal. Including all alternate items, the lowest bid received totaled \$214,369.00. The Town has set aside funds totaling \$169,668.73; an additional \$44,700.27 would be needed to award all alternate items.

BUDGET/FUNDING:

Stonewall Bridge Epoxy Funds Previously Set Aside:

4500-R47926 Highway Maintenance Bridge Repairs - \$169,668.73 PO#29953

Potential Additional Funding from Prospect Bridge Project

4500-R47926 Highway Maintenance Bridge Repairs - \$44,700.27 PO#29956

STAFF RECOMMENDATION: Staff recommends awarding the Stonewall Bridge Epoxy Application and all alternates. The responses for the mobilization bid line was \$20,000. Completing the alternate items at this time could avoid future mobilization costs.

Staff recommends using \$44,700.27 from the Prospect Bridge Project to award all alternate items for the Stonewall Bridge Epoxy Application. The total Prospect Bridge Project is estimated to be \$210,000, which the Town has encumbered from the prior budget. If the Town is approved for the V-DOT Revenue Sharing Program on the Prospect Bridge Project, the Town would only need to fund approximately \$105,000 of the project. Approval for VDOT Revenue Sharing will be announced in the fall of 2020. If the Town does not receive the revenue sharing funds, staff can review other options for funding the Prospect Bridge Project at that time.

Work Session

VENDOR SPREAD SHEET



Town of Front Royal, VA

BID TABULATION SUMMARY BID: IFB #19-2020 BRIDGE DECK REPAIRS: EPOXY APPLICATION BID OPENING DATE & TIME: 6/22/20 @ 2 PM	ARCHER WESTERN CONSTRUCTION, LLC HERNDON, VA	BURLEIGH CONSTRUCTION CO., INC. CONCORD, VA
DESCRIPTION		
MOBILIZATION	\$ 20,000.00	\$ 20,000.00
MAINTENANCE OF TRAFFIC	\$ 15,000.00	\$ 6,500.00
PREVENTION, CONTROL, AND ABATEMENT OF EROSION AND WATER POLLUTION	\$ 5,000.00	\$ 4,500.00
DECK MILLING	\$ 52,000.00	\$ 27,300.00
EPOXY OVERLAY	\$ 78,400.00	\$ 42,720.00
ALTERNATE 1: SPALL REPAIR	\$ 37,800.00	\$ 93,555.00
ALTERNATE 2: EXPANSION JOINTS	\$ 6,900.00	\$ 7,590.00
ALTERNATE 3 SIDEWALK	\$ 3,640.00	\$ 4,784.00
ALTERNATE 4: VEGETATION REMOVAL	\$ 6,000.00	\$ 7,420.00
TOTAL WITH ALTERNATES	\$224,740.00	\$214,369.00

The **VENDOR SPREAD SHEET** is generated from the initial, raw information collected.

No award decision has been made.

Prepared by: Alisa Scott, CPPB, VCO, PMP

Department of Purchasing
 102 E Main Street
 Front Royal, VA 22630
 Website: www.frontroyalva.com
 Phone 540-636-6889

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Item # 2

DATE: 7/20/20

AGENDA ITEM: Review of FY20 Revenues

SUMMARY: Town Council approved a FY20 budget transfer/amendment on April 27, 2020 providing contingency funds for the general fund, street fund, water fund, sewer fund, and solid waste fund due to the COVID-19 pandemic and requested periodic reviews of revenues.

Staff is providing Town Council with updated information related to key revenues as of June 30th, 2020. Revenues provided are unaudited figures and do not include fiscal year end entries/accruals; figures will be subject to change until the fiscal year comprehensive annual financial report is complete.

BUDGET/FUNDING: Funding to be transferred from contingency funds.

STAFF RECOMMENDATION: Staff recommends continuing the review of revenues and contingency amounts monthly with Council.

Work Session

KEY REVENUE REVIEW

as of June 30, 2020

Unaudited Figures - Subject to Change

General		Above/Below Expired FY20 Budget
	Real Estate Tax (General Fund Allocation)	\$ (110,993.43)
	Sales Tax - Warren County	\$ 65,968.60
	Lodging Tax	\$ (51,201.21)
	Meals Tax	\$ (16,985.43)
	PILOT - Utility Bills	\$ 37,299.04
	Fines & Forfeitures	\$ (105,060.83)
	Rental Vehicle Tax	\$ 789.60
	Communication Tax	\$ (7,049.97)
	Subtotal	\$ (187,233.63)
	General Fund Contingency	\$ 324,054.34
	G/F Difference After Contingency	\$ 136,820.71

Streets		Above/Below Expired FY20 Budget
	Street Construction & Maintenance (V-DOT)	\$ (36,953.67)
	Street Fund Contingency	\$ -
	Street Fund Difference After Contingency	\$ (36,953.67)

Electric		Above/Below Expired FY20 Budget
	Electric Sales	\$ (16,734.37)
	Electric Fund Contingency	\$ -
	Electric Fund Difference After Contingency	\$ (16,734.37)

Water		Above/Below Expired FY20 Budget
	Water Sales	\$ (452,528.83)
	Water Connections	\$ (72,002.80)
	Subtotal	\$ (524,531.63)
	Water Contingency	\$ 620,866.00
	Water Difference After Contingency	\$ 96,334.37

Sewer		Above/Below Expired
		FY20 Budget
	Sewer Sales	\$ (539,428.69)
	Sewer Connections	\$ (259,211.00)
	Subtotal	\$ (798,639.69)
	Sewer Contingency	\$ 256,404.46
	Sewer Difference After Contingency	\$ (542,235.23)

Solid Waste		Above/Below Expired
		FY20 Budget
	Solid Waste Sales	\$ (5,496.45)
	Tipping Fees Collected from Utility Billing	\$ (3,325.40)
	Subtotal	\$ (8,821.85)
	Solid Waste Contingency	\$ 26,618.70
	Solid Waste Difference After Contingency	\$ 17,796.85

DELINQUENT UTILITY ACCOUNTS

Number of Delinquent Active Utiltiy Accounts May 2020	2,022
Number of Delinquent Active Utlitiy Accounts June 2020	1,151
May 2020 Delinquent Utiltiy Account \$	\$ 841,441.54
June 2020 Delinquent Utiltiy Account \$	\$ 658,438.88

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Work Session Agenda Form

Item # 3

DATE: July 20, 2020

AGENDA ITEM:

Review of a request from LUMOS NETWORKS, INC., dba SEGRA, for a new, non-exclusive, limited franchise and pole attachment agreement for voice and data telecommunications services via fiber optic cable, commencing upon approval by Town Council and execution by the Town Manager. LUMOS NETWORKS, INC. has executed the draft agreement effective July 9, 2020.

SUMMARY:

LUMOS NETWORKS, INC. is the successor in interest to NTELOS Network, Inc. which had a now expired (2013) limited franchise agreement with the Town to provide telecommunications services to Warren Memorial Hospital. LUMOS NETWORKS, INC. seeks a limited five (5) year, non-exclusive, franchise agreement with the Town to use the public ways to construct, operate and maintain a fiber optic telecommunications system, the term of which can be extended for four (4) additional five (5) year terms upon successive agreement of the parties. The franchise will be limited in scope to individual fiber build projects, with the scope of the franchise to be expanded for additional fiber builds on a case-by-case basis pursuant to administrative review and approval. The agreement provides for compensation to the Town for the use of the public ways and for attachment to Town-owned utility poles and use of Town-owned conduit.

BUDGET/FUNDING:

None.

STAFF RECOMMENDATION:

LUMOS NETWORKS, INC., dba SEGRA currently provides telecommunications services via its installed fiber optic cable system to select businesses and proposes to expand its services to a larger range of customers should the Town grant the proposed franchise. Given the limited scope of the franchise, a right-of-way utilization study to determine capacity is not necessary. The proposed franchise would generate revenue for the Town. Franchises for use of the public ways for a term not in excess of five years need not be advertised for bids pursuant to Virginia Code §15.2-2100 (B), but must be approved by ordinance passed by a recorded affirmative vote of three-fourths of the members elected to Town Council pursuant to §15.2-2100 (A).

FRANCHISE AGREEMENT FOR FIBER OPTIC SERVICES

LUMOS NETWORKS INC.

THIS AGREEMENT ("Agreement") is made and entered into this 9th day of July 2020 ("Effective Date"), by and between the TOWN OF FRONT ROYAL VIRGINIA a Municipal Corporation, (hereinafter called "the Town" or "Town") and LUMOS NETWORKS INC., a corporation authorized to do business in Virginia, also doing business as SEGRA, (hereinafter called "Grantee"), the Town and Grantee collectively referred to as "the parties". This Agreement is for the purpose of granting to Grantee the right, for the term and upon the conditions herein stated, to use the streets, alleys and public ways to erect, construct, operate and maintain a fiber optic telecommunication system and to construct, install and maintain fiber optic cable and associated equipment, including, wires, cables, conduits and appurtenances necessary to the sale and distribution of fiber optic telecommunication services in and along the streets, alleys and other public ways in the Town and in and on property of the Town, establishing conditions controlling the exercise of said franchise and regulating the manner of using the streets, alleys, public ways and property.

IT IS HEREBY AGREED between the parties as follows:

Section 1. Definitions.

As used herein, the following words and phrases shall have the following meanings, unless a contrary intent appears from the context of the provision therein used:

- a. "Town" or "the Town" means the Town of Front Royal, Virginia;
- b. "Fiber optic equipment" includes fiber optic cable and associated equipment including wires, cables, conduits and appurtenances necessary to the sale and distribution of telecommunication services in and along the streets, alleys and other public ways in the Town, identified and permitted under the provisions of this franchise and as permitted to be utilized by Grantee by the then existing rules, regulations and laws governing said telecommunication services. It does not include video services or leasing conduit space or fiber optic cable capacity for resale;
- c. "Grantee" or "the grantee" means LUMOS NETWORKS INC.;
- d. "Street" or "the streets" means the streets, alleys, avenues, highways and/or other public ways owned by or subject to the control of the Town;
- e. "Attachment" means fiber optic cable placed directly on Town poles, but does not include fiber optic cable overlashed onto an existing attachment, or a service drop attached to a single pole where the Grantee has an existing Attachment on such pole;
- f. "Town conduit" means a structure owned by the Town containing one or more ducts, usually placed in the ground, in which cables or wires may be installed;

g. "In the streets" shall be construed and understood to include "under, along or over the streets," when the physical situation so applies;

h. "Services" is used in this Agreement in the sense of products or commodities furnished by Grantee and equipment, apparatus, and facilities devoted to the purposes for which Grantee is permitted to be engaged by the then existing regulations and laws governing telecommunication services, and in the manner and as permitted under the provisions of this franchise;

g. "Director of Public Works" means the Director of the Town's Public Works Department, "Director of Energy Services" means the Director of the Town's Energy Services Department, and "P.E." means the Town's Professional Engineer, all in the Town of Front Royal or such other officer or official of Town government, or other person, charged by the Town Charter or Town Council with responsibility and authority over the maintenance of public streets and public property in the Town regardless of the title then assigned such person;

h. "Fiber optic cable" means that stranded optical glass carrier fiber and the sheathing used to house such fiber;

i. "Individual service line" means a connection or drop to an individual customer.

Section 2. Grant of Authority.

Subject to the provisions, conditions and restrictions set forth in this Agreement or herein referred to, there is hereby granted to Grantee, for a period of five (5) years from the Effective Date of this Agreement, the non-exclusive right to

use the streets of the Town to operate and maintain a fiber optic telecommunication system within and along the streets of the Town, and, for these purposes, to construct, erect, maintain and use and, if now constructed, to continue to maintain and use and operate, its fiber optic equipment, including necessary manholes, in, under, across, over and along the streets within the corporate limits of the Town provided, however, that initially Grantee shall only be permitted to use the streets identified and particularly described and set forth as "Exhibit A", attached hereto and incorporated by reference herein. It is specifically understood that the actual location of the fiber optic equipment shall be substantially as set forth in Exhibit A, but may be modified, subject to the approval of the Town Manager, from the location shown on said Exhibit A. Nothing contained herein shall require further approval for the installation of individual service lines which run in or over the public right of way or public property included in the franchise area described in Exhibit A. This Agreement shall, if not terminated in accordance with other provisions of this Agreement, continue in effect for a term of five (5) years from the Effective Date (the "Initial Term"), and will thereafter continue in full force and effect upon the same covenants, terms, and conditions for up to four (4) additional terms of five (5) years each ("Renewal Term") provided that the parties notify each other in writing at least six (6) months prior to the expiration of the then current term of their intention to renew. The parties acknowledge that, as of the Effective Date of this Agreement, there were eleven (11) attachments and zero (0) feet of cable installed in Town conduit.

Grantee shall only be permitted to operate and maintain a fiber optic telecommunication system in the streets of the Town outside the area identified as "Exhibit A" after appropriate application by Grantee and approval of such additional usage area by the Town Manager upon such terms and conditions as are deemed acceptable by Town, including, without limitation, any additional bond. Such approval shall not be unreasonably withheld, conditioned or delayed.

Upon the expiration of the term for which this franchise is granted, or upon expiration of any renewal or extension of the original term hereof, or upon earlier termination as provided herein, the Grantee shall, upon receipt of the written request of Town, at its own expense, remove all fiber optic equipment from all streets, public ways, within the Town within ninety (90) days after receipt of such request and, should Grantee refuse or fail to comply with this provision, the Town shall have the right to remove said equipment at a cost to be borne by the Grantee and the Town shall not be liable to the Grantee for any damages resulting therefrom, except for damages that may result from any negligent or willful act by the Town, its employees or agents.

Section 3. Territorial Area Involved.

The franchise relates to the present territorial limits of the Town, and to any area henceforth added to the territorial limits of the Town during the term of this franchise, or any renewal or extension thereof.

Section 4. Use of Streets.

a. General Control and Location of Lines and Conduit. The Grantee, in connection with any digging it shall make in the streets in the Town, shall be subject to the provisions of this franchise and to all applicable ordinances, laws and regulations. All fiber optic equipment erected by the Grantee shall be neat and shall be so located as to in no way interfere with the safety or convenience of persons traveling on or over the streets and public places. The Town reserves the right at any time by resolution of Town Council or otherwise through proper representatives of the Town to further or specifically designate the locations of any lines, cables or conduits, with reference to other municipal facilities such as sewer and water mains, signal poles and lines, drainage facilities, and other services, or to other facilities such as gas lines, public electric utilities or railway message, telephone and telegraph lines, signal or power lines in such a manner as to promote the public safety and to protect public property. Failure by the Town to so designate shall not relieve the Grantee of responsibility in matters of public safety as hereinbefore specified. Town further reserves the right to establish by ordinance or resolution, and Grantee hereby agrees to comply with any reasonable regulation necessary for the health, safety and welfare of its citizens as now in effect or as may be adopted in the future, including, without limitation, requiring substitution of underground conduit for overhead cable or vice-versa, or requiring transfer of cable from the front or rear of property. At least thirty days prior to any installation, removal, or relocation, Grantee shall submit detailed plans of proposed action for approval by the Town Manager. An exception to this requirement for the submission of detailed plans shall be permitted in cases of repair

of the fiber optic equipment or emergencies involving public safety. The Town Manager shall approve such plans or communicate reasons for disapproval within thirty days or earlier of submittal. The Grantee shall construct and locate fiber optic equipment so as not to interfere with the construction, location and maintenance of sewer and water service lines or mains. The Town may restrict the location of service lines, appurtenances or facilities of the Grantee from pathways, parkways or parkway drives wherein such would conflict with appearance standards or may require, as an alternate thereto, the construction wholly or in part of underground conduit, appurtenances or facilities.

b. For the purposes of installing, operating and maintaining the wire, cables and appliances, fixtures, and appurtenances necessary to the fiber optic telecommunication system, the Grantee shall be required, whenever reasonably possible, to use the poles and conduits of others including Town conduit. "Others" is defined as public utilities, including the Town, any electrical utility and/or telephone utility having authority or a franchise to construct, install and maintain poles, towers and conduits within the Town.

All underground cables which are required to pass in or under portions of public rights-of-way including, but not limited to, easements, alleys, sidewalks, and streets, shall be housed in conduit not less than one and one-half (1.5) inches in diameter. All underground cable installed in conduits or ducts shall be of the polyethylene jacketed type or an equivalent direct burial type.

c. Restricted overhead Area. Within all required areas all of the Grantee's cable lines and cable facilities shall be constructed and maintained underground, provided, however, that where poles and overhead lines and cables exist at the time of the award of this franchise, Grantee shall be allowed to construct and maintain overhead facilities in such areas, but, provided further should any or all of such existing overhead facilities in said district, be relocated, replaced or reconstructed underground, Grantee's facilities will also be so relocated. Furthermore, the Town expressly reserves the right and authority in the reasonable exercise of its police power, to remove from the streets, alleys, highways or other public places of the Town, or any part thereof, Grantees poles, wires and other appurtenances, and place the wires and other appurtenances underground in safe and suitable conduits. Nothing herein shall constitute waiver or approval of any type under applicable zoning requirements.

d. Disturbance of Streets - Restoration.

(1) Written permits, in any or all cases shall be obtained by the Grantee from the Director of Public Works and the P.E. of the Town before and whenever it becomes necessary for the Grantee to excavate in the streets of the Town in order to install, repair, replace, construct or extend any of the fiber optic equipment or services therein or thereon. Such permits, further, shall state the particular part or point of the streets where said construction or excavation is to be made and the length of time in which such permits shall authorize such work to be done. An exception to this requirement for a permit or permits shall be permitted in cases of emergency

repair of the fiber optic equipment or emergencies involving public safety. In all such cases, Grantee shall provide appropriate notice as soon as reasonably possible, and in any event no later than the close of business on the next Town working day.

(2) Immediately after fiber optic equipment is installed or repaired by Grantee, the incidental trenches or excavations shall be refilled by the Grantee in a manner acceptable to the Director of Public Works. Pavement, sidewalks, curbs, gutters or other portions of streets or public places destroyed, disturbed or damaged by such work shall be promptly restored and replaced with like materials to their former condition by the Grantee at its own expense; however, where it is necessary, and if expressly permitted by Town, in order to restore disturbed or damaged property to its former condition the Grantee may or shall use materials whose type, specifications or quantities exceed or are different than those used in the original construction or installation and the Grantee at its own expense shall provide such different materials. Where a cut or disturbance is made in a section of sidewalk paving, rather than replacing only the area actually cut, the Grantee shall replace the full width of the existing walk and the full length of the section or sections cut, a section being defined as that area marked by expansion joint or scoring. The Grantee shall, in any street, promptly remove or correct any obstruction or defect therein which may have been caused by the Grantee or its agents in the installation, operation or maintenance of the Grantee's facilities. Any such obstruction or defect which is not promptly removed, repaired or corrected by the Grantee after proper written notice, given by the Town to said Grantee at Grantee's principal place of business

may be removed or corrected by the Town, and costs thereof shall be charged against the Grantee and may be enforced as a lien upon any of its properties or assets. Expenses or damage, relocation or replacement of Town utility lines, sanitary sewers, storm sewer, and storm drains, where such expenses result from construction or maintenance of the Grantee's lines or facilities, shall be borne by the Grantee and any expenses incurred in connection therewith by the Town shall be reimbursed by the Grantee.

(3) The Grantee shall not open, disturb or obstruct, at any one time, any more of such public streets than may, in the opinion of the Director of Public Works or the P.E., be reasonably necessary to enable it to proceed in laying or repairing its fiber optic equipment. Neither shall the Grantee permit any such street, sidewalk or public place, so opened, disturbed or obstructed by it in the installation, construction or repair of its fiber optic equipment, to remain open or the public way disturbed or obstructed by the Grantee, the Grantee shall take all precautions necessary or proper for the protection of the public, shall obtain all required permits and approvals and shall maintain adequate warning signs, barricades, signals and other devices necessary or proper to adequately give notice, protection and warning to the public of the existence of all actual conditions present.

(4) Whenever the Town shall widen, reconstruct, realign, pave or repave any street or public place, or shall change the grade or line of any street or public place or shall construct or reconstruct any Town conduit, water main, sewer or water connection, or other municipal works or utility, it shall be the duty of the

Grantee, when so requested in writing by the Town, to change its lines, conduits, services and other property in the streets or public places, and/or areas adjacent thereto, at Grantee's sole expense so as to conform to the new widening, location, alignment or grade of such street or public place and so as not to interfere with the Town conduits, sewers and other mains as constructed or reconstructed. Upon written notice by the Town of its intended work, above specified, the Grantee shall within a reasonable period of time accomplish its obligation in accordance with and to conform to the plans of the Town for such construction, reconstruction or improvements. However, the Grantee shall not be required by the Town to relocate fiber optic lines, whether above or below the ground elevation, when the street or public ground in which they are located is vacated for the convenience of abutting property owners and not as an incident to a public improvement.

(5) The Town Council may require that written permits, in any or all cases, be obtained by the Grantee from the Director of Public Works, the P.E., and the Director of Energy Services before and whenever it becomes necessary for the Grantee to install, construct, extend any fiber optic equipment or services on, over or under any bridges or viaducts which are part of the street system of the Town; provided, however, that exception to the requirement of permits shall be provided in cases of emergencies involving public safety. In all such cases, Grantee shall provide appropriate notice as soon as reasonably possible, and in any event no later than the close of business on the next Town working day. All provisions of this Agreement shall be applicable to said installation, construction, extension or repair on, over or

under any such bridge or viaduct provided that the factors of appearance and achievement and maintenance of structural design requirements of the bridge or viaduct shall be assured.

Section 5. Use of Town Poles / Conduit.

a. Before making attachment to any pole or poles of Town, or installing in Town conduit, Grantee shall make application and receive a permit therefore in the form of "Exhibit B", attached hereto and made a part hereof ("Application"). All "make-ready" work performed by Town shall be billed on a time and materials cost basis. All attachments and Town conduit installations made prior to the date of this Agreement will be considered valid permitted attachments.

b. It is understood by Grantee that the Town has heretofore entered into, and may in the future enter into, contractual agreement with other parties for the joint use of its poles. Therefore, any application submitted by Grantee under the terms of this Section and any permission granted by Town shall be subject to the attachment rights which may be exercised by such other parties under such agreements.

c. Town shall permit the joint use of its poles and Town conduit located in the public rights-of-way by Grantee to the extent lawful and reasonably practicable and upon Application and payment of a reasonable fee as set forth herein.

d. Grantee's cables, wires, and appliances in each and every location shall be erected and maintained in accordance with the requirements and specifications of the current National Electrical Safety Code (NESC), the National Electrical Code, or

any amendments or revisions of said codes, practices, or specifications. It is distinctly understood, however, that Town reserves the right to limit the number and character of attachments on any pole or poles, or cabling installed in Town conduit. Grantee shall not attach to or otherwise use the existing facilities of the Town other than the pole or Town conduit itself, including cross-arms, brackets, guys, anchors, etc., without prior written consent of the Town.

e. Grantee shall, at its own expense, make and maintain said uses and attachments in safe condition, in thorough repair and in a manner in conformance with this Agreement and so they will not conflict with the use of said poles by Town or by other parties using or having reserved the right to use said poles or interfere with the working use of facilities thereon or which may from time to time be placed thereon. Town shall keep the poles in safe condition, in thorough repair and so they will not conflict with the use of said poles by Grantee. Grantee shall at any time, upon twenty (20) working days' notice from Town, re-locate, replace, or renew its facilities placed on said poles, and transfer them to substituted poles, or perform any other work in connection with said facilities that may be required by Town at Town's expense; provided however, that in cases of emergency, Town may arrange to re-locate, replace, or renew the facilities placed on said poles by Grantee, transfer them to substituted poles or perform any other work in connection with said facilities that may be required in the maintenance, replacement, removal or relocation of said poles, the facilities thereon, or which may be placed thereon, or for the service needs of

Town, and Grantee shall, on demand, reimburse Town for the actual reasonable expense thereby incurred.

f. In the event that any pole or poles of Town to which Grantee desires to make attachments are inadequate to support the additional facilities of Grantee in accordance with the aforesaid specifications, Town will indicate on said Application the changes necessary to provide adequate poles and the estimated cost reflective of the cost to replace a pole with a 40 ft. class 5 pole ("standard pole size") thereof, except where use of a smaller stub pole which serves a limited number of customers on a spur line would be adequate, to Grantee and return it to Grantee. If Grantee still desires to make the attachments and returns the Application marked to so indicate, Town will replace such inadequate poles with suitable poles of standard pole size, and Grantee will reimburse Town the increased cost of the standard pole size (but if Town requires a pole larger than the standard pole size then the Town will pay the cost of the difference between the cost of a standard pole size and the cost of the larger pole set), the sacrificed life value of the poles removed, the cost of removal less any salvage recovery, and the expense of transferring Town's facilities from the old to the new poles. Where Grantee's desired attachments can be accommodated on present poles of Town by re-arranging Town's and others' facilities thereon, Grantee will on demand compensate Town for the full actual reasonable expense incurred in completing such rearrangements. Any strengthening of poles (guying) required to accommodate the attachments of Grantee shall be provided at the expense of Grantee.

In the event that the Town elects to place its electric service underground, thus removing the poles on which Grantee has attachments of facilities, Grantee will have no claim against the Town for the removal of the pole, Grantee shall have the option to place its lines underground, and any placement of Grantee's facilities underground shall be at the sole cost and expense of Grantee.

g. Town reserves to itself, its successors and assigns, the right to maintain its poles and to operate its facilities thereon in such a manner as will be enable it to fulfill its own service requirements, but in accordance with the specifications hereinbefore referred to Town shall not be liable, except for gross negligence or willful misconduct in which case the Town will be liable, to Grantee for any interruption to service of Grantee or for interference with the operation of the cables, wires, and appliances of Grantee arising in any manner out of the use of Town's poles hereunder. Town will trim trees and clear rights-of-way to protect its facilities, but does not guarantee Grantee tree clearance of clear rights-of-way for installation, access to, or maintenance of Grantee's facilities.

h. Town will cooperate as far as may be practicable in providing attachment rights for Grantee on its existing poles. Town hereby grants to the extent it has authority to do so, license rights to Grantee to occupy the poles. Town will provide written notice to Grantee in the instance Town is not able to provide attachment rights to Grantee on a pole of Town's that Grantee plans to put attachments on. In such instance Grantee will obtain necessary authorizations to erect and maintain its facilities within public streets, highways and other thoroughfares

and shall secure any necessary consent from state, county, or municipal authorities, or from owners of property to construct and maintain facilities at the locations of poles of Town which it desires to use, and will hold Town harmless from any claims for damage of liability whatever nature arising out of failure of Grantee to secure such consents, franchises, or other certificates of convenience and necessity as may be lawfully required.

i. Grantee shall pay to Town, for attachments made to poles owned by the Town under this Agreement, a rental at the rate of TWENTY-FIVE DOLLARS (\$25.00) per pole, per year, and use of Town conduit at the rate of TWO DOLLAR (\$2.00) per foot per year, payable in advance, for the term of this Agreement based on the following determination of usage:

Use of poles and Town conduit shall be determined by a field survey of the poles and Town conduit used by Grantee pursuant to this Agreement conducted by the Town at intervals of ONE (1) year. Payments shall be due and payable within thirty (30) days of receipt of billing. The annual advance payment for any year in which a field survey of usage is conducted shall be based on the most recent available field survey.

Upon completion of every field survey during the term of this Agreement, the usage so determined shall be compared with the poles and Town conduit used from the preceding survey. The Town will send the invoice to Grantee for the annual pole rental and Town conduit usage due under this Agreement to the following address:

LUMOS NETWORKS INC. DBA SEGRA
Attn: Accounts Payable
One Lumos Plaza
P.O. Box 1068
Waynesboro, VA 22980

j. During the term of this Agreement, whenever it becomes necessary to replace a pole owned by the Town, or upon request by Grantee for a new pole to be installed by the Town, installation or replacement shall be accomplished by one of the following means, at the sole discretion of the Town, but in all cases replacement poles and new poles will be owned by the Town and the Town will tag them as

Town owned poles:

- A) Grantee shall notify Town of a damaged or obsolete pole and request the Town to replace the pole because it has the Town's electric lines and equipment attached to it. Town shall then, at its sole expense and within a reasonable time, obtain and install a replacement pole, which shall be the property of the Town, and shall notify Grantee in writing, by certified mail, return receipt requested, of the placement of the replacement pole. Within twenty (20) business days after Grantee's receipt of such notification, Grantee shall transfer its lines and facilities from the old pole to the replacement pole; provided that in the event of an emergency replacement, Town may also transfer Grantee's facilities and Grantee will reimburse the Town for its actual reasonable costs incurred; or
- B) Grantee shall notify the Town of the need for a new or replacement pole to accommodate its existing facilities. Town shall within twenty (20) business days install and emplace the said pole, re-locate the Town's lines and facilities, if any, and notify Grantee of such installation. In recognition of the value of the Town's installation of said replacement poles for Grantee, during the five (5) years of this Agreement, Grantee shall pay to the Town an installation fee of the actual reasonable cost incurred by the Town, including the cost of the pole.

k. Grantee agrees to take all reasonable precautions by the installation of protective equipment and comply with all applicable laws to protect persons and property against injury or damage that may result from Grantee's attachments to Town's poles. However, Town shall not be considered in any way responsible for the adequacy or inadequacy of such precautions of Grantee.

Section 6. Maps and Plats.

The Grantee shall, upon written and reasonable request at any time from the Town Manager, or other official designated by the Town Manager, make available or furnish to the Town Manager, or other designated official, maps, plats or plans, or copies thereof, showing the location but not necessarily the use of any or all of its fiber optic equipment and other structures located in, under and along the streets and public places of the Town.

Section 7. Taxes.

Nothing in this Agreement shall be construed to prevent the Town, hereafter and from time to time, from levying any lawful tax on the properties of the said Grantee.

Section 8. Safety Methods and Equipment.

The Grantee shall maintain all its property, equipment, and facilities, including without limitations its poles, wires, conduits and fiber optic equipment with the Town in good and safe order and operating condition through the term of the franchise.

Section 9. Liability.

a. Damage Claims. Grantee shall indemnify and hold free and harmless the Town, its officials, officers, agents, and employees, from and against any and all loss, cost, or expense, including reasonable attorney's fees, resulting from any claim, whether or not reduced to judgment, and for any liability of any nature whatsoever including, without limitation, injury, death or damage to persons or property, that may arise out of or result from the presence, construction, operation, maintenance or use by Grantee, its agents, employees, or invitees of the fiber optic equipment under the terms and conditions of this franchise or the exercise by Grantee of any right granted by or under this franchise.

Liability. Town reserves to itself the right to maintain and operate its poles in such manner as will best enable it to fulfill its service requirements. Grantee agrees to use Town's poles at Grantee's sole risk. Notwithstanding the foregoing, Town shall exercise reasonable precaution to avoid damaging Grantee's Fiber optic equipment and shall report to Grantee the occurrence of any such damage caused by its employees, agents or contractors. Subject to the provisions of this Article XVI, and to the extent permitted by state or federal law, Town agrees to reimburse Grantee for all reasonable costs incurred by Grantee for the physical repair of such facilities damaged by the negligence or willful misconduct of Town.

Indemnification. Grantee, and any agent, contractor or subcontractor of Grantee, shall defend, indemnify and hold harmless Town and its officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors, against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by Town under any Workers' Compensation Laws or under any plan for employees' disability and death benefits), and expenses (including reasonable attorney fees of Town and all other costs and expenses of litigation) ("Covered Claims") caused by Grantee, or by Grantee's officers, directors, employees, agents, and contractors, of Grantee's Fiber optic equipment, except to the extent of Town's negligence or willful misconduct giving rise to such Covered Claims. Such Covered Claims include, but are not limited to, the following:

Intellectual property infringement, libel and slander, trespass, unauthorized use of television or radio broadcast programs and other program material, and infringement of patents;

Damage to property, injury to or death of any person arising out of the performance or nonperformance of any work or obligation undertaken by Grantee, or Grantee's officers, directors, employees, agents, and contractors, pursuant to this Agreement;

Liabilities incurred as a result of Grantee's violation, or a violation by Grantee's officers, directors, employees, agents, and contractors, of any law, rule, or regulation of the United States, Commonwealth of Virginia or any other governmental entity or administrative agency, whether such violation is the result of a violation of the statute by Town or Grantee solely or any joint violation thereof.

Procedure for Indemnification.

Town shall give notice promptly to the Grantee of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit or proceeding filed by a third party against Town, the notice shall be given to Grantee by Town no later than fifteen (15) calendar days after written notice of the action, suit or proceeding was received by Town.

Failure to timely give the required notice will not relieve the Grantee from its obligation to indemnify the Town unless the Grantee is materially prejudiced by such failure.

The Grantee will have the right at any time, by notice to the Town, to participate in the defense of the claim with counsel of its choice, which counsel must be reasonably acceptable to the Town. Town shall assume control of the defense of any claim against Town unless Town agrees in writing to permit Grantee to assume control of the claim, in which case Town agrees to cooperate fully with the Grantee. If the Grantee so assumes control of the defense of any third-party claim, the Town shall have the right to participate in the defense at its own expense. If the Grantee does not so assume control or otherwise participate in the defense of any third-party claim, it shall be bound by the results obtained by the Town with respect to the claim.

If the Grantee assumes the defense of a third-party claim as described above, then in no event will the Town admit any liability with respect to, or settle, compromise or discharge, any third party claim without the Grantee's prior written consent, and the Town will agree to any settlement, compromise or discharge of any third-party claim which the Grantee may recommend which releases the Town completely from such claim.

Environmental Hazards. Grantee represents and warrants that its use of Town's poles will not generate any hazardous substances, that it will not store or dispose on or about Town's poles or transport to Town's poles any

hazardous substances and that Grantee's Fiber optic equipment will not constitute or contain and will not generate any hazardous substance in violation of Federal, state or local law now or hereafter in effect including any amendments. "Hazardous substance" shall be interpreted to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any Federal, state, or local laws, regulations or rules now or hereafter in effect including any amendments. Grantee, and its agents, contractors and subcontractors, shall defend, indemnify and hold harmless Town and its respective officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors against any and/or all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, expenses (including reasonable attorney fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage or discovery of any such hazardous wastes or hazardous substances on, under or adjacent to Town's poles attributable to Grantee's use of Town's poles.

Municipal Liability Limits. No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by Town of any applicable State limits on municipal liability.

Duty to Inspect. Grantee acknowledges and agrees that Town does not warrant the condition or safety of Town's poles, or the premises surrounding the poles, and Grantee further acknowledges and agrees that it has an obligation to inspect Town's poles and/or premises surrounding the poles, prior to commencing any work on Town's poles or entering the premises surrounding the poles.

Knowledge of Work Conditions. By executing this Agreement, Grantee warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that Grantee will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.

DISCLAIMER. TOWN MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO TOWN'S POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND TOWN MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH IN THIS AGREEMENT. TOWN EXPRESSLY DISCLAIMS ANY

IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Duty to Competent Supervision and Performance. The parties further understand and agree that in the performance of work under this Agreement, Grantee and its agents, servants, employees, contractors and subcontractors will work near electrically energized lines, transformers, or other Town Facilities, and it is the intention that energy therein will not be interrupted during the continuance of this Agreement, except in an emergency endangering life, grave personal injury, or property. Grantee shall ensure that its employees, servants, agents, contractors and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of Town, and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, Grantee shall furnish its employees, servants, agents, contractors and subcontractors competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. Grantee agrees that in emergency situations in which it may be necessary to deenergize any part of Town's equipment, Grantee shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

Requests to De-energize. In the event Town de-energizes any equipment or line at Grantee's request and for its benefit and convenience in performing a particular segment of any work, Grantee shall reimburse Town in full for all costs and expenses incurred, in accordance with Article III in order to comply with Grantee's request. Before Town de-energizes any equipment or line, it shall provide, upon request, an estimate of all costs and expenses to be incurred in accommodating Grantee's request.

Interruption of Service. In the event that Grantee shall cause an interruption of service by damaging or interfering with any equipment of Town, Grantee at its expense shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting therefrom and shall notify Town immediately.

Duty to Inform. Grantee further warrants that it understands the imminent dangers (INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION) inherent in the work necessary to make installations on Town's poles by Grantee's employees, servants, agents, contractors or subcontractors, and accepts as its duty and sole responsibility to notify and

inform Grantee's employees, servants, agents, contractors or subcontractors of such dangers, and to keep them informed regarding same.

EXCLUSION OF LIABILITY FOR SPECIAL INDIRECT OR CONSEQUENTIAL DAMAGES. TO THE EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, RELIANCE, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO NONECONOMICS LOSS, DAMAGES FOR INCREASED COST OF OPERATIONS, LOSS OF ANTICIPATED PROFITS OR REVENUE OR OTHER ECONOMIC LOSS IN CONNECTION WITH OR ARISING FROM ANY ACT OR FAILURE TO ACT PURSUANT TO THIS AGREEMENT, EVEN IF THE OTHER PARTY HAS ADVISED SUCH PARTY OF THE POSSIBILITY OF SUCH DAMAGES

b. Insurance. Grantee shall, at its expense, prior to any use or entry upon Town streets or property and at all times during the term of this franchise, maintain and provide Town with suitable evidence of both (1) broad form contractual liability insurance coverage including the indemnification obligation set forth in Section 9.a. above, and (2) comprehensive general public liability insurance coverage naming Grantee, its employees, affiliates, or contractors as insureds and naming the Town of Front Royal, Virginia, its officers, officials, agents and employees as additional insureds, insuring against on an occurrence basis all claims, loss, cost, damage, expense and liability from loss of life or damage or injury to persons or property arising out of Grantee's use of Town streets or property. Said policies shall have limits of not less than FIVE MILLION DOLLARS (\$5,000,000.00) combined single limit for loss of life or injury to one or more persons and for property damage as a result of one incident.

Policies Required. At all times during the term of this Agreement, Grantee shall keep in force and effect all insurance policies as described below:

Worker's Compensation and Employers' Liability Insurance.

Statutory worker's compensation benefits and employers' liability insurance with a limit of liability no less than that required by Virginia law at the time of the application of this provision for each accident. Grantee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.

Commercial General Liability Insurance. Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, property damage, with Limits of liability not less than \$2,000,000 general aggregate, \$2,000,000 personal injury, \$5,000,000 each occurrence.

Automobile Liability Insurance. Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.

Umbrella Liability Insurance. Coverage is to be in excess of the sum employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$4,000,000 each occurrence, \$4,000,000 aggregate. Overall limits of liability may be met through any combination of primary and excess liability policies.

Property Insurance. Each party will be responsible for maintaining property insurance on its own facilities, buildings and other improvements, including all equipment, fixtures, and utility structures, fencing, or support systems that may be placed on, within, or around Town Facilities to fully protect against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as "extended coverage" insurance or self-insure such exposures.

Qualification: Priority: Contractors' Coverage. The insurer or insurers providing the required coverage must be authorized to do business under the laws of the Commonwealth of Virginia and have an "A-" or better rating in Best's Guide. Such required liability insurance will be primary and noncontributing with respect to losses for which Grantee is responsible hereunder. All contractors and all of their subcontractors who perform work on behalf of Grantee shall carry, in full force and effect, worker's compensation and employer's liability, commercial general liability and automobile liability insurance coverages of the type that Grantee is required to obtain under this Article with the same limits.

Certificate of Insurance: Other Requirements. Prior to the execution of this Agreement and prior to each insurance policy expiration date during the term of this Agreement, Grantee will furnish Town with a Certificate of Insurance evidencing the required insurance policies. The Certificate shall reference this Agreement in the description of operations section of the certificate. Such certificates shall state that notice of cancellation will be given in accordance with policy provisions. Town, its council members, board members, commissioners, agencies, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be named as Additional Insureds under all of the required commercial general liability, automobile liability, and umbrella/excess policies, which shall be so stated on the Certificate of Insurance. All policies, other than worker's compensation, shall be written on an occurrence and not on a claims-made basis. Grantee shall defend, indemnify and hold harmless Town and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article. Grantee shall obtain Certificates of Insurance from its agents, contractors and subcontractors performing work hereunder and provide a copy of such Certificates to Town upon request.

Limits. The limits of liability set out in this Article may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal or other governmental compensation plans, or laws which would materially increase or decrease Grantee's exposure to risk.

Prohibited Exclusions. No policies of insurance required to be obtained by Grantee or its contractors or subcontractors shall contain provisions (1) that exclude coverage for contractual liability that are more restrictive than the coverage afforded under the current CG 00 01 policy of commercial general liability insurance, (2) that exclude coverage of liability arising from excavating, collapse, or underground work, (3) that exclude coverage for injuries to Town's employees or agents, or (4) that exclude coverage for Grantee's independent contractors' liability. This list of prohibited provisions shall not be interpreted as exclusive.

Deductible/Self-insurance Retention Amounts. Grantee shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

c. Grantee shall require substantially identical indemnification and insurance coverages as set forth in Sections 9.a. and 9.b. above in favor of the Town of Front Royal, Virginia, its officials, officers, agents and employees, from any independent contractor or other entity working on its behalf in Town right-of-way.

Section 10. Approval of Transfer.

No sale, assignment, or lease by the Grantee of the franchise or of the privileges granted hereunder shall be permitted or effective without prior approval by the Town Council. As a condition to consideration by the Council of a sale or assignment, the Grantee shall file with the Town Manager written notice of the proposed sale or assignment and the vendee or assignee shall similarly file an instrument, duly executed, reciting the fact of such proposed sale or assignment, offering to accept the terms of this franchise, and agreeing to perform all of the conditions thereof.

Section 11. Non-Exclusive Franchise.

The rights herein granted the Grantee to construct, maintain or operate its fiber optic telecommunication system in the Town, as set forth herein, or to perform any other act or exercise any other privilege granted or provided for in this franchise shall not be construed as exclusive or as preventing the Town from granting to any other person, firm or corporation the same or similar franchise rights and privileges, to be exercised in or upon its streets and such of the same and parts thereof as the

Town may deem best or choose to allow, permit, give or grant.

Section 12. Lien of Town.

All debts, penalties, or forfeitures accruing to the Town under the terms of this Agreement shall constitute a lien upon the property and franchises of the said Grantee within the Town, subject, however, to then-existing prior liens.

Section 13. Jurisdiction of Government Regulatory Commissions.

Where any provision of this franchise is in conflict with any lawful rule of the State Corporation Commission of Virginia, or of any other duly constituted body or commission legally authorized to prescribe rules governing the conduct of the Grantee within the Town, so that the Grantee cannot reasonably comply with both the provisions of this franchise and the rule of such commission or body, then the Grantee shall comply with each and all of the provisions of this franchise where such can be done without violating valid statutes or rules of the said commission or body.

Section 14. General Ordinances of the Town.

The rights and privileges herein granted are expressly subject to the conditions, limitations and provisions contained in the general ordinances of the Town in force relative to the use of streets or public places of the Town, so far as they may be applicable, to the rights and privileges herein granted, and to any and all ordinances which may be hereafter passed by the Town applicable thereto in the exercise of the police power or any other power vested in the Town for the regulation of public service corporations using the streets of the Town; and the Town expressly reserves the right to pass all such reasonable ordinances for the regulation of the use

of the streets and public ways and places, and for the exercise of the rights and privileges herein granted.

Section 15. Communications Tax / Franchise Fee and Bond.

Grantee shall comply with the provisions of Sections 58.1-645 et seq. of the Code of Virginia, pertaining to the Virginia Communications Sales and Use Tax, as amended (the "Communications Tax"), for so long as the Communications Tax or a successor state or local tax that would constitute a franchise fee for purposes of 47 U.S.C. § 542 is imposed on the sale of Services by Grantee.

In the event that the Communications Tax is repealed, and no successor state or local tax is enacted that would constitute a franchise fee for purposes of 47 U.S.C. § 542, Grantee shall pay to the Town a franchise fee of five percent (5%) of annual gross revenue derived from Services provided within the municipal limits of the Town, beginning thirty (30) days from the effective date of the repeal of such tax (the "Repeal Date"). Beginning on the Repeal Date, this provision shall take effect and shall be calculated and paid according to federal law.

Such payments shall be in addition to, and not in lieu of, any business license tax, real or personal property tax, or other tax of general application to which Grantee may be subject.

Grantee shall, upon the effective date of this franchise, deliver to Town and maintain during the term hereof a bond with approved corporate surety or an irrevocable letter of credit with Town as beneficiary in the amount of FIFTY

THOUSAND AND 00/100 DOLLARS (\$50,000.00) to insure Grantee's compliance with its performance obligations hereunder including, without limitation, the timeliness and quality of any construction, required repair or restoration work, or removal of Grantee's fiber optic equipment upon expiration or termination of the franchise.

Section 16. Effective Date.

This Agreement shall be in force and effect on the date above first written upon acceptance by Grantee and adoption by the Town.

Section 17. Termination and Forfeiture of Franchise.

a. Upon the termination of this franchise and the rights granted hereunder, whether by expiration or forfeiture, Town Council may direct and require the Grantee to remove its fiber optic equipment from the streets and public ways within ninety (90) days. Should Grantee fail to comply with this provision, the Town shall have the right to remove said equipment at a cost to be borne by the Grantee and the Town shall not be liable to the Grantee for any damages resulting therefrom, except for damages that result from any negligent or willful act by the Town, its employees or agents.

b. In addition to all other rights and powers of the Town by virtue of this franchise or otherwise, the Town reserves the right to terminate and cancel this franchise and all rights and privileges of the Grantee hereunder in the event Grantee:

(1) Violates any provision of this franchise, except where such violation is without fault or through excusable neglect or is in compliance with a valid and enforceable rule, regulation, order or mandate of a State or Federal law or agency which preempts the Town's rule, order or determination.

(2) Becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt.

(3) Attempts to evade any of the provisions of this franchise or practices any fraud or deceit upon the Town.

c. Upon the happening of an above described event, the Town shall send written notice to the Grantee at the last business address of said Grantee indicating the manner in which the forfeiture or violation has taken place. The notice shall also specify a time and place for a hearing at which the Grantee shall have the opportunity to show cause why said forfeiture or termination should not take place. After such hearing or opportunity for hearing, Town Council may, by resolution, either terminate this franchise or extend the same upon such conditions as it deems correct.

Section 18. Statutory Requirements

- a. Grantee shall not during the performance of this Agreement knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986. 31. During the performance of this Agreement, Grantee agrees as follows:
- b. Grantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in

employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Grantee. Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- c. Grantee, in all solicitations or advertisements for employees placed by or on behalf of Grantee, will state that such contractor is an equal opportunity employer.
- d. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- e. Grantee will include the provisions of the foregoing in every subcontract or purchase order of over \$10,000 to this Agreement, so that the provisions will be binding upon each subcontractor or vendor of Grantee.
- f. During the performance of this Agreement, Grantee agrees to (i) provide a drug-free workplace for the Grantee's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Grantee that Grantee maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000 to this Agreement, so that the provisions will be binding upon each subcontractor or vendor of Grantee to this Agreement. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
- g. At all times during this Agreement, Grantee shall be organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, Grantee shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

Section 19. Notices.

All notices, requests or other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed first-class, postage prepaid, by certified mail, return receipt requested, addressed to:

a. GRANTEE

LUMOS NETWORKS INC. DBA SEGRA
Attn: General Counsel
One Lumos Plaza
Waynesboro, VA 22980

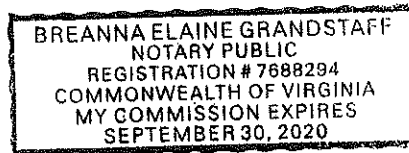
b. TOWN

TOWN OF FRONT ROYAL
Town Manager
16 North Royal Avenue
P. O. Box 1560
Front Royal, Virginia 22630

Section 20. Acceptance.

The undersigned, LUMOS NETWORKS INC., hereby accepts the grant and each and all of the provisions, conditions and limitations of this Agreement and hereby covenants and agrees that it will perform and discharge each and all of the duties and obligations imposed upon it as Grantee in and under said Agreement, and that it will be bound by each and all of the terms, conditions and provisions therein contained.

IN WITNESS WHEREOF, LUMOS NETWORKS INC. has caused this written acceptance to be executed in its name by its General Counsel thereunto duly authorized, and its corporate seal to be hereunto duly affixed thereunto duly authorized, on the 9th day of July, 2020.



Breanna E. Grandstaff 7/9/2020

ACCEPTED:

LUMOS NETWORKS INC. DBA SEGRA

BY: Mary M. Dermott
Date

TOWN OF FRONT ROYAL, VIRGINIA

BY: _____
Date

Teste.,

Clerk of Council

APPROVED AS TO FORM:

Town Attorney

Date: ____ / ____ / ____

EXHIBIT A

Legend

- Existing Aerial
- Proposed Buried
- Town Limits

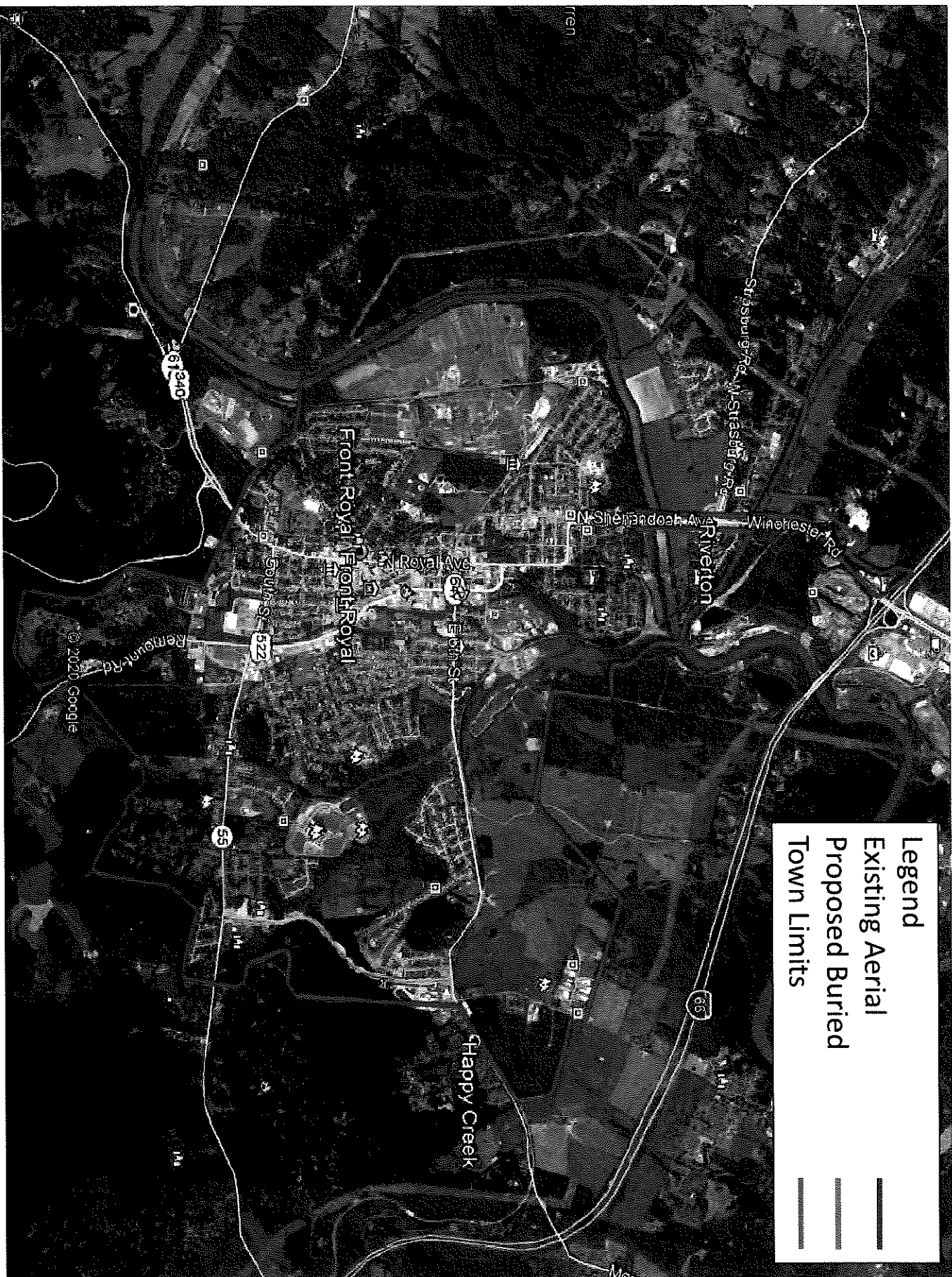




EXHIBIT B

Energy Services

No: _____

Town of Front Royal, Virginia

Date: _____

Application is hereby made for permission to make attachments to the following poles:

☐ Sketch Attached

<u>Pole Nos.</u>	<u>Location</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

LUMOS NETWORKS INC. DBA SEGRA

By: Mary McDermott

Permission is granted to make the attachments described in the above application subject to the acceptance of obligation to pay the actual non-betterment costs ("make-ready" shall be billed on a time and materials cost basis, the estimated amounts of which are shown below) of the plant rearrangements and changes necessary to accommodate the above-specified attachments.

Town of Front Royal, Virginia Cost \$_____

Permit _____, _____ Granted: _____, 20 Permit

Accepted: _____, 20_____

TOWN OF FRONT ROYAL, VIRGINIA

LUMOS NETWORKS INC. DBA SEGRA

By: _____

By: Mary McDermott

4



Work Session Agenda Form

Item # 4

DATE: July 16, 2020

AGENDA ITEM: Resolution to the School Board

SUMMARY:

Council is requested to provide consensus for a letter regarding high school graduation ceremonies which will be sent to the Warren County School Board and the Board of Supervisors.

BUDGET/FUNDING: N/A

STAFF RECOMMENDATION: Council takes desired action

Work Session

5



Work Session Agenda Form

Item # 5

DATE: July 16, 2020

AGENDA ITEM: Social Media\Website\PIO Office Review

SUMMARY:

Review of statistics regarding the Public Information Office initiative started in December 2019. As well as structures put in place to address communications support with the public and media.

BUDGET/FUNDING: N/A

STAFF RECOMMENDATION: N/A

Work Session

6



Work Session Agenda Form

Item # 6

DATE: 7/20/20

AGENDA ITEM: UFAC Vacancy

SUMMARY: At the November 4, 2019 Work Session Council directed the Clerk of Council to advertise for the vacancy left on the Urban Forestry Advisory Commission (UFAC). The vacancy occurred when the member's term expired on December 20, 2019 and the member did not want to be considered for reappointment. On November 6, 2019 the vacancy was advertised, but no applications were received. UFAC Chairman Jason Lanham has confirmed that UFAC would like to fill the vacancy.

BUDGET/FUNDING: N/A

STAFF RECOMMENDATION: Council takes desired action.

Work Session