

ORDINANCE NO. 08 - 2021

AN ORDINANCE OF THE CITY OF BEREA, KENTUCKY, GRANTING UNTO WINDSTREAM KENTUCKY EAST, LLC, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, FRANCHISE, AND PRIVILEGE FOR A PERIOD OF TEN YEARS, FROM APRIL 9, 2021, TO ACQUIRE, CONSTRUCT AND MAINTAIN IN THE CITY OF BEREA, KENTUCKY, THE NECESSARY FACILITIES FOR THE OPERATION AND MAINTENANCE OF A TELEPHONE AND COMMUNICATIONS SERVICES SYSTEM FOR PUBLIC AND PRIVATE USE, AND TO USE AND OCCUPY THE PUBLIC STREETS, HIGHWAYS, AVENUES, ALLEYS, BRIDGES, AND PUBLIC PLACES FOR SUCH PURPOSES, AND PRESCRIBING THE TERMS AND CONDITIONS THEREOF.

WHEREAS, by Ordinance No. 04-2021, the City of Berea, Kentucky, created a non-exclusive franchise for telephone and communication services, pursuant to Kentucky Constitution Section 163, KRS 82.082 and KRS 96.010, within the City of Berea, Kentucky, and requested that bids be submitted therefor; and

WHEREAS, Windstream Kentucky East, LLC (hereafter Windstream), submitted a bid pursuant to Ordinance No. 04-2021; and

WHEREAS, the said bid of Windstream was accepted by the City Council of the City of Berea, Kentucky,

NOW, THEREFORE, be it ordained by the City Council of the City of Berea, Kentucky, as follows:

SECTION I

That Windstream, its successors and assigns, be and it is hereby granted and vested with the right, franchise, and privilege for a period of ten (10) years, from April 9, 2021, as provided by law, to acquire, construct, maintain, or operate within the City of Berea, Madison County, Kentucky, the necessary facilities for the operation and maintenance of a telephone and communication services system for public and private

use, and to construct and maintain along, upon, across, or under the streets, highways, avenues, alleys, bridges, and public places, the necessary fixtures and equipment for such purpose.

SECTION II

This franchise shall not be exclusive and shall not restrict in any manner the right of the City of Berea in the exercise of any regulatory power which it now has or which may hereafter be authorized or permitted by laws of the United States and the Commonwealth of Kentucky.

SECTION III

The Franchise Agreement between the City of Berea and Windstream dated April 9, 2021, is hereby ratified and approved. Windstream, its successors and assigns, shall at all times during the term of this franchise, conform, with, submit to, and carry out any and all ordinances and contracts relating to the furnishing of telephone and communication services now in force or that may hereafter be enacted and not inconsistent herewith; and particularly, Windstream shall comply in all respects to the terms and provisions of Ordinance No. 04-2021 of the City of Berea, Kentucky, which is adopted herein by reference, except so it may be inconsistent herewith.

SECTION IV

The franchise granted herein supersedes and replaces the franchise granted to Windstream by Ordinance No. 04- 2016.

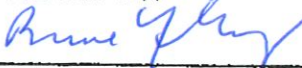
SECTION V

This ordinance shall be effective on publication as required by law.

FIRST READING: April 6, 2021.

SECOND READING AND ENACTMENT: April 8, 2021.

APPROVED BY:



Bruce Fraley, Mayor

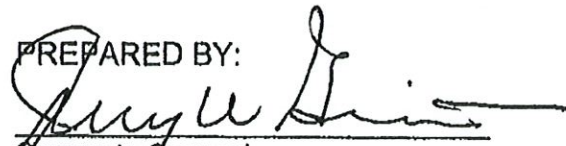
ATTEST:



Clerk of the City Council

Published this 14 day of April, 2021.

PREPARED BY:



Corporate Counsel