

ORDINANCE NO. 18 - 2021

AN ORDINANCE OF THE CITY OF BEREAS, KENTUCKY, GRANTING UNTO OPENFIBER KENTUCKY COMPANY LLC. ("OFKY"), ITS SUCCESSORS AND ASSIGNS, THE RIGHT, FRANCHISE, AND PRIVILEGE FOR A PERIOD OF TEN YEARS, FROM July 15, 2021, TO ACQUIRE, CONSTRUCT AND MAINTAIN IN THE CITY OF BEREAS, KENTUCKY, THE NECESSARY FACILITIES FOR THE OPERATION AND MAINTENANCE OF A 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 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, OpenFiber Kentucky Company LLC. ("OFKY") submitted a bid pursuant to Ordinance No. 04-2021; and

WHEREAS, the said bid of OFKY, 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 OFKY, 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 July 15, 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 cable television 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 OFKY dated July 6, 2021, is hereby ratified and approved. OFKY, 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 communication services now in force or that may hereafter be enacted and not inconsistent herewith; and particularly, OFKY 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

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

FIRST READING: June 15, 2021.

SECOND READING AND ENACTMENT: July 6, 2021.

APPROVED BY:



Bruce Fraley, Mayor

ATTEST:



Clerk of the City Council

Published this 7 day of July, 2021.

PREPARED BY:



Corporate Counsel