


FROM	NAME & TITLE	Rudolph S. Chow, P.E., Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of Public Works 600 Abel Wolman Municipal Building		
	SUBJECT	CITY COUNCIL BILL 15-0528		

TO

DATE:

June 1, 2015

The Honorable President and Members
of the Baltimore City Council
c/o Natawna Austin
Room 400 – City Hall

I am herein reporting on City Council Bill 15-0528 introduced by the Council President on behalf of the Administration (Department of Transportation).

The purpose of the Bill is to grant a franchise to Extenet Systems, Inc., to construct, install, maintain, repair, operate, relocate, replace, and remove certain facilities relating to the provision of a distributed Antenna Systems services in and across certain streets and public ways, subject to certain terms and conditions; and providing for a special effective date.

Article VIII {Franchises} of the Baltimore City Charter states that the title of the City "...in and to its waterfront, wharf property, land under water, public landings, wharves and docks, streets, lanes and parks..." is inalienable. The City may grant limited usage of these areas for a limited period provided certain terms and conditions of the grant are contained within a duly adopted ordinance. Those conditions include: establishing the franchise fee by the Board of Estimates "...at the largest amount that it may be able to maintain..."; limiting the term of the franchise to a maximum of 25 years, with the opportunity to renew; maintaining the encroachment in good condition; reserving the City's right to full municipal superintendence, regulation and control; and, when terminating the franchise, the disposition of the encroachment.

City Council Bill 15-0528, if approved, would grant a franchise to Extenet Systems, Inc. to install a network of facilities within the City that would provide infrastructure for use by cellular service providers to improve or expand services to their customers. This wireless communications technology requires that radiofrequency transmitters or antennae be attached on street light poles, stand-alone poles, or third party utility poles. It would also include the installation of fiber optic cable in conduits, ducts or other structures on or within the public way. This franchise is nonexclusive, meaning that other companies could seek a franchise with the City to provide similar services. The term of the franchise would be for 10 years from the date the ordinance is approved, and may be renewed for three additional renewal periods of 5 years each, provided the City has not indicated its request for termination and the Franchisee is not in arrears or is disputing the franchise fee. The proposed franchise fee would be \$100/year but the attachment rights would be based on a separate attachment agreement for every installation of network facilities in the public way.

The following sections of the Agreement are of particular interest to the Department of Public Works:

- Section 2.3 No Interference – We fully support this section of the Agreement which specifies that the Franchisee’s rights to install their facilities in the public way is contingent upon protecting existing utilities, both public and private, from interference.
- Section 7.2 Installation Plan and 7.3 Approval by City – These sections of the Agreement are important for the City to maintain control over the proposed placement of the Franchisee’s facilities in the rights-of-way and on City-owned poles and other structures. Although not specifically spelled out in the Agreement, it is this Department’s expectation that the City’s review and approval of installation plans, and the appearance of the installations, would include review by the Commission for Historical and Architectural Preservation (CHAP) staff when the plans include installations in historic districts.
- 8.1 Compliance with Standards and Specifications – As with any construction that takes place in the City, holding the Franchisee to referenced standards, specifications and codes is just good practice.
- 8.5 Disruption, Interference and Damage – As an agency that is performing a significant amount of construction, coordinating with private utilities and with other applicable City agencies is a challenge deserving of mention in this Agreement.
- 8.7 One Call Notification System – The Franchisee is required to be a member of the One Call Notification System by State law. Calling before you dig is an important safety procedure that must be followed for the protection of utilities and our communities.
- 9.3 Repair of Public Way – This section of the Agreement provides for the restoration of the public way, utilities, curbs and gutters, etc., and adjacent properties that may be damaged or impacted by the Franchisee’s installations or maintenance work.
- 9.5 Graffiti – Prompt removal of graffiti is important in maintaining the attractiveness of the City. While this section does give authority for the City to remove the graffiti and charge the costs to the Franchisee, it is important to note that the authority to do so in no way transfers to the City the responsibility for removing graffiti from the Franchisee’s property.

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- 12.2 Removal Due to Public Project – This section of the Agreement clarifies that the Franchisee is responsible for relocating or removing their facilities to accommodate a public project and is responsible for the costs to do so.
- 17.0 Radiofrequency Interference: MPE Evaluation – The Franchisee must ensure that their facilities will not result in radiofrequency interference to any FCC-licensed devices or to existing operations of the City. The BaltiMeter water meter installations rely on radiofrequency for data transmission of water usage by our customers. While the radiofrequency of the franchisee’s facilities are not expected to interfere with the BaltiMeter transmissions, it is important that this Agreement clarifies the responsibilities of the Franchisee should interference problems arise.
- 24.0 Environmental – This section of the Agreement make clear that hazardous materials are not to be stored, treated, or disposed of in the public way and holds the City and its officials harmless from actions on the part of the Franchisee as a result of certain environmental conditions.

Based on these findings and comments, the Department of Public Works has no objection to the passage of City Council Bill 15-0528 provided the Board of Estimates approves the franchise fee and attachment agreement.

Sincerely,



Rudolph S. Chow, P.E.
Director

RSC/MMC:ela