

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

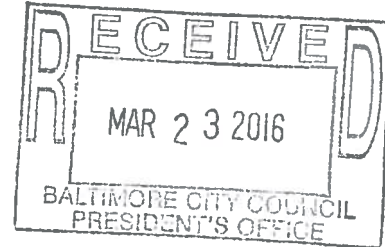


DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor  
101 City Hall  
Baltimore, Maryland 21202

March 23, 2016

The Honorable President and Members  
of the Baltimore City Council  
Attn: Natawna Austin, Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202



Re: City Council Bill 15-0596 – Franchise – Mobilitie

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0596 for form and legal sufficiency. The bill grants a franchise to Mobilitie, LLC. to construct, install, maintain, repair, operate, relocate, replace and remove facilities relating to the provision of telecommunication services through a network of Small Cells in and across certain streets and public ways, subject to certain terms and conditions. The bill provides for a special effective date.

This franchise ordinance and the attached franchise agreement, which is made part of the ordinance, allows Mobilitie to use the City rights-of-way to conduct a business in which wireless antenna will be attached to poles to provide certain cellular communication services. The exercise of the franchise is conditioned on Mobilitie executing a separate attachment agreement with the City. The attachment agreement governs and regulates the actual facilities that attach to City poles. In contrast, and pursuant to Article VIII of the City Charter, Council Bill 15-0596 concerns matters pertaining to Mobilitie use of City rights-of-way.

The Law Department notes that the bill as drafted provides a franchise to install a distributed antenna system. Mobilitie, however, plans to install “small cells” on City poles, rather than nodes in a distributed antennae system. Small cell facilities are low powered wireless base stations, which normally include only a single node, to provide telecommunication services for a single service provider and that serves a smaller geographical area than that provided by a single node in a distributed antennae system. To correct the error, the Law Department seeks to amend the bill (see the attachments).

Article VIII of the Baltimore City Charter requires that a bill granting a franchise be referred to the Board of Estimates after first reading. City Charter, Art. VIII, § 2. The BOE is empowered to change both the proposed compensation to be paid the City and the conditions

*Fav w/ Amend*

under which the franchise is granted. *Id.* Furthermore, the Board of Estimates must approve by vote or resolution the compensation and terms of the franchise and these are to be attached to the bill before the bill can be enacted. *Id.*

If the above procedural requirements are met, the bill shall be in accordance with Article VIII of the Baltimore City Charter and the Law Department will approve the bill for form and legal sufficiency.

Very truly yours,

A handwritten signature in black ink, appearing to read "Victor K. Tervala". The signature is fluid and cursive, with a long horizontal stroke at the end.

Victor K. Tervala  
Chief Solicitor

cc: George Nilson, City Solicitor  
Angela C. Gibson, Mayor's Legislative Liaison  
Elena DiPietro, Chief, Opinions & Advice  
Hilary Ruley, Chief Solicitor  
Jennifer Landis, Assistant Solicitor

**AMENDMENTS TO COUNCIL BILL 15-0596  
(First Reader Copy)**

By: Law Department  
{To be offered to the Housing and Community Development Committee}

**Amendment No. 1**

On page 1, in lines 5 and 6, strike “a Distributed Antenna Systems services” and substitute “telecommunication services through a network of Small Cells”; on page 1, in line 15, strike “Distributed Antenna Systems services” and substitute “telecommunication services through a network of Small Cells”; and, on page 3, in lines 13 and 14, strike “Distributed Antenna Systems (“DAS”) services” and substitute “telecommunication services through a network of Small Cells”.

**Amendment No. 2**

On page 4, in line 40, strike “, collectively, each of the DAS or”; on page 5, in line 4, strike “is” and substitute “may be”; and, on page 5, beginning in line 6, strike “A” down through and including the period in line 7.

**Amendment No. 3**

On page 5, beginning in line 24, strike “similar” down through and including “Node”, in line 25, and substitute “that employs low powered wireless base stations, which normally include only a single node, to provide telecommunication services for a single service provider and that typically serves a smaller geographical area than that provided by a single node in a distributed antennae system”.

**Amendment No. 4**

On page 7, in line 23, strike “DAS” and substitute “Small Cell”.