

Legislation Text

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Granting permission to CTSI, Inc., its successors and assigns to construct, maintain and operate, replace, and remove a telecommunications system along, over, in and under the public rights-of-way and City streets and/or to place such telecommunications system within the existing facilities owned by Verizon-PA, PECO Energy Company, Southeastern Pennsylvania Transportation Authority, CSX Corporation, Norfolk Southern Corporation, Consolidated Rail Corporation or other entities holding a grant pursuant to other City ordinances; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to CTSI, Inc, 100 CTE Drive, Dallas, Pennsylvania 18612-9774 (hereinafter "CTSI") and its successors, assigns, and agents, to construct, maintain, operate, replace, and remove a telecommunications system and appurtenances along, in and under the public rights-of-way of the City of Philadelphia and within existing facilities owned by Verizon-PA, PECO Energy Company, Southeastern Pennsylvania Transportation Authority, CSX Corporation, Norfolk Southern Corporation, Consolidated Rail Corporation or other entities holding a grant pursuant to other City ordinances, subject to such owner's consent; and to construct, lay, operate, maintain, replace and remove new telecommunications cables, conduits, access manholes and associated appurtenances (collectively, the "Telecommunications System") to create a system used to transmit, receive and distribute telecommunications, provided that CTSI is not authorized by this Ordinance to provide to subscribers within the City "cable service," (as defined at 47 U.S.C. §522(6)), or "video programming" (as defined at 47U.S.C. §522(20)) as an open video system operator pursuant to 47 U.S.C. §573(a) or otherwise.

(a) CTSI is authorized to attach aerial facilities to authorized existing Verizon-PA and/or Exelon Company utility poles in and along the following public rights-of-way subject to the utility pole owner's permission:

Ridge avenue:	From Northwestern avenue (City limits) to Hermitage street
Hermitage street:	From Ridge avenue to Pechin street
Pechin street:	From Hermitage street to Shurs Lane
Shurs Lane:	From Pechin street to Main street
Main street:	From Shurs Lane to Ridge avenue
Ridge avenue:	From School House Lane to Allegheny avenue
Allegheny avenue:	From Ridge avenue to Fox street
Fox street:	From Allegheny avenue to Twenty-third street
Twenty-third street:	From Fox street to Somerset street
Somerset street:	From Twenty-third street to Twentieth street
Twentieth street:	From Somerset street to Margie street
Margie street:	From Twentieth street to Glenwood avenue
Glenwood avenue:	From Margie street to Twenty-second street
Twenty-second street:	From Glenwood avenue to Norris street
Norris street:	From Twenty-second street to Twenty-fifth street
Twenty-fifth street:	From Norris street to Oxford street

Oxford street: From Twenty-fifth street to Sixteenth street
Sixteenth street: From Oxford street to Callowhill street

(b) CTSI is authorized to install a new underground duct within the public right-of-way at the following locations provided that any manhole used by CTSI is legal and authorized by the City of Philadelphia:

Callowhill street: From Sixteenth street to Broad street and into the building
401 North Broad street
Ridge avenue: From Main street to School House lane

(c) The said Telecommunications System shall be constructed in accordance with the requirements of, and under the supervision of, the Department of Streets. The Telecommunications System shall be constructed without interference with any existing surface or subsurface structures, and it shall be used by CTSI and/or its successors and assigns exclusively for the purposes set forth in this Section and in accordance with all ordinances of the City of Philadelphia and regulations of the Committee of Highway Supervisors governing the construction, maintenance, and operation of underground structures and the equipment, facilities and or appurtenances placed therein.

(d) The permission granted by this Ordinance is conditioned upon the approval of the Department of Streets as to the construction and installation of CTSI's facilities at any location along the specified route and is not a guaranty that CTSI's facilities can be placed at any particular location along that route. No City department, agency, board, or commission shall be required solely by virtue of this Ordinance to issue any permit, license, or approval that CTSI must by law obtain prior to construction or occupancy of existing conduit in the public right-of-way.

(e) All telecommunication facilities that include an alteration to a rail/highway crossing, as such alterations are defined under state law, must have, in addition to the approvals set forth in this Ordinance, the appropriate approval of the Pennsylvania Public Utility Commission. Obtaining approval from the Pennsylvania Public Utility Commission is the sole responsibility of CTSI.

(f) CTSI, must submit proof of authorization from the governmental body responsible for maintaining any highway bridge crossing over a railroad right-of-way if the Telecommunications System listed in this Section is constructed on or attached to any such bridges.

SECTION 2. In the event that any portion of said Telecommunications System must be relocated to accommodate a public improvement or public facility, whether such improvement or facility is constructed by the City or by another governmental entity, or by contract with the City or with any governmental entity, the Department of Streets shall provide CTSI with written notice at least one hundred eighty (180) days prior to the date any action would be required by CTSI to relocate said portion of the Telecommunications System. Within one hundred eighty (180) days of service of said notice upon CTSI, CTSI shall relocate said portion of the Telecommunications System and restore the roadway and footway disturbed by the relocation to the condition it was in prior to the relocation, without expense to the City. In the event that CTSI is required to remove any portion of the Telecommunications System at the request of the City, the Department of Streets shall cooperate with CTSI in order to identify a replacement and alternative right-of-way for the relocation of said portion of the Telecommunications System which may be utilized without unreasonable inconvenience.

SECTION 3. Pursuant to subsection 11-204(5) of The Philadelphia Code, the permission granted by this Ordinance shall include permission to extend from the route described in Section 1 by no more than three (3) City blocks, said blocks to be demarcated by major City streets and not by intervening pathways or alleyways. Before any such extensions are made, CTSI shall first obtain the approval of the Department of Streets. This Section shall govern all deviations from the route approved in Section 1, including those deviations that serve as replacement and alternative right-of-ways in relocating CTSI pursuant to Section 2 of this Ordinance. All deviations which extend more than three (3) City blocks from the approved route shall require additional authorization from City Council.

SECTION 4. The permission granted to CTSI to occupy the public right-of-way and City streets with its Telecommunications System shall be and is subject to the terms and conditions of this Ordinance, and other applicable ordinances of the City of Philadelphia, including, but not limited to, all ordinances of general application currently in existence or hereafter enacted related to the right of occupancy and to use of property in, under, over, along and across the streets, sidewalks, alleyways, easements and right-of-ways within the City of Philadelphia. Such permission is also subject to the terms and conditions of all applicable agreements, to the extent that such agreements are consistent with the terms and conditions of this Ordinance.

SECTION 5. Before exercising any rights and privileges under this Ordinance, CTSI shall enter into an agreement (“Agreement”) with the appropriate City department or departments, in form satisfactory to the City Solicitor, to provide that CTSI shall, *inter alia*:

- (a) furnish the City with a bond with corporate surety in an amount required by the Department of Streets and in form satisfactory to the City Solicitor to ensure the compliance with all the terms and conditions of this Ordinance and the Agreement and to protect and to indemnify the City from and against all damages or claims for damages which may arise directly as a result of the construction, maintenance, operation or removal of CTSI’s Telecommunications System;
- (b) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards, or commissions of the City or other governmental entity as may be required by law;
- (c) assume the costs of all changes and adjustments to, and relocation and abandonment of, all utilities and structures wherever located as may be necessary by reason of the installation of CTSI’s Telecommunications System;
- (d) carry insurance protecting against liability for injury to persons or property of others, naming the City as an additional insured party in such amounts as shall be reasonably satisfactory to the City Solicitor;
- (e) pay all charges, rents, franchise fees or other fees that the City of Philadelphia may now or in the future impose for a licensee’s occupation of City property, streets and rights-of-way;
- (f) remove any or all portions of the Telecommunications System listed in Section 1 from the public rights-of-way pursuant to applicable City of Philadelphia specifications within sixty (60) days when the Telecommunications System or a portion of the Telecommunications System is no longer used for the purpose authorized by the ordinance or existing law;
- (g) mark in a manner designated by the City the identification of any manholes constructed by CTSI in the public right-of-way;
- (h) submit to the City within ninety days (90) of the completion of construction of the telecommunication system listed in Section 1, a copy of the “as built” plans in a format designated by the City and at no cost or expense to the City; and
- (i) make necessary adjustments or reimburse the City of Philadelphia for making adjustments to any manholes constructed in the public right-of-way along the route authorized in Section 1 of this Ordinance when instructed to do so by the Streets Department in preparation of a street paving project;

SECTION 6. Before CTSI attaches any aerial facilities to existing utility poles along a public right of way, CTSI must identify the specific legislation authorizing the utility pole to be constructed along the public right of way, the specific identification number of the utility pole and the specific agreement between the City of Philadelphia and the owner of the utility pole which gives the utility pole owner the right to be constructed within the public right of way.

SECTION 7. The City Solicitor shall include in the Agreement such other terms and provisions as shall be deemed necessary to protect the interest of the City.

SECTION 8. The permission granted to CTSI to construct, maintain and operate, replace and remove a telecommunication system along, in and under rights-of-way, public rights-of-way and City streets listed in Section 1 of this Ordinance shall expire without any further action by the City of Philadelphia if CTSI has not entered into the Agreement as required by Section 5 within one (1) year after this Ordinance becomes law.

SECTION 9. The permission granted to CTSI and its successors, assigns, and agents for installation and or construction of the new facilities along the route identified in this Ordinance shall expire without any further action by the City of Philadelphia as to such portions not constructed two (2) years after the date this Ordinance becomes law unless CTSI, its successors, assigns, and agents have substantially completed the construction of the new facilities authorized herein. A change in ownership of the assets of CTSI does not, without express written permission of the City of Philadelphia, extend the time for substantially completing the construction of the new facilities authorized herein.

SECTION 10. The City of Philadelphia reserves the right to charge a transfer fee for any agreement transferring the right-of-way license from one entity to another so as to insure that all costs incurred by the City of Philadelphia related to the transfer are

reimbursed. The transferee must pay all costs incurred by the City of Philadelphia associated with such transfer within 30 days of the date the City submits such costs to the transferee or the transferee's authorized agent.

SECTION 11. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.