

Legislation Text

File #: 000121, **Version:** 0

Granting permission to Cavalier Telephone Mid-Atlantic, LLC, 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 on or within the existing facilities owned by Bell Atlantic-PA, PECO Energy Company, Southeastern Pennsylvania Transportation Authority, CSX Corporation, Norfolk Southern, Consolidated Rail Corporation Shared Assets or other entity 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 Cavalier Telephone Mid-Atlantic, LLC, (hereinafter “Cavalier”) 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 on or within the existing facilities owned by Bell Atlantic-PA, PECO Energy Company, Southeastern Pennsylvania Transportation Authority, CSX Corporation, Norfolk Southern, Consolidated Rail Corporation Shared Assets or other entity 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 Cavalier is not authorized by this Ordinance to provide to subscribers within the City “cable service”, as that term is defined at 47 U.S.C. section 522(5), as amended).

(a) Cavalier is authorized to attach aerial facilities to authorized existing utility poles owned by Bell Atlantic-PA Inc. and or PECO Energy Company in and along the following public rights-of-way subject to the utility pole owner’s permission:

5th street: From Diamond street to Brown street

8th street: From Brown street to Callowhill street

12th street: From Lakeside avenue to 69th avenue

13 th street:	From 69 th avenue to 65 th avenue
16 th street:	From Dauphin street to Jefferson street
16 th street:	From Master street to Carlton street
17 th street:	From Godfrey avenue to Church lane
17 th street:	From South street to Snyder avenue
17 th street:	From Jefferson street to Master street
18 th street:	From Chelten avenue to Godfrey avenue
25 th street:	From Allegheny avenue to Indiana avenue
26 th street:	From Indiana avenue to Dauphin street
28 th street:	From Oakford street to Snyder avenue
42 nd street:	From Ludlow street to Fairmount avenue
44 th street:	From Fairmount avenue to Parrish street
46 th street:	From Parrish street to Lancaster avenue
49 th street:	From Kingsessing avenue to Paschall avenue
51 st street:	From Warren street to Girard avenue
52 nd street:	From Lancaster avenue to Warren street
53 rd street:	From Jefferson street to Parkside avenue
54 th street:	From Woodland avenue to Kingsessing avenue
55 th street:	From Girard avenue to Vine street
56 th street:	From Vine street to Market street
56 th street:	From Ludlow street to Pine street
56 th street:	From Kingsessing avenue to Woodland avenue
59 th street:	From Pine street to Christian street
60 th street:	From Christian street to Baltimore avenue

65 th avenue:	From 13 th street to Old York road
65 th street:	From Greenway avenue to Kingsessing avenue
69 th avenue:	From 12 th street to 13 th street
70 th avenue:	From Cheltenham avenue to Lakeside avenue
70 th street:	From Regent avenue to Woodland avenue
84 th street:	From Lindbergh Boulevard to City of Philadelphia limits
Adams avenue:	From Wingohocking street to Church street
Alburger avenue:	From Welsh road to Verree road
Allegheny avenue:	From Fox street to 25 th street
Baltimore avenue:	From 60 th street to City of Philadelphia limits
Bartram avenue:	From Island avenue to 84 th street
Bells Mill road:	From Germantown avenue to Ridge avenue
Brown street:	From 5 th street to 8 th street
Bryn Mawr avenue:	From Parkside avenue to City of Philadelphia limits
Bustleton avenue:	From Comly street to Robbins street
Carlton street:	From 16 th street to 17 th street
Castor avenue:	From Cayuga street to Wingohocking street
Cayuga street:	From O street to Castor avenue
Charles street:	From Tyson avenue to Wellington street
Cheltenham avenue:	From Old York road to 18 th street
Cheltenham street:	From Magnolia street to Osceola street
Cheltenham avenue:	From Oak lane road to 70 th avenue
Chew avenue:	From Tulpehocken street to Mount Airy avenue
Christian street:	From 59 th street to 60 th street

Church lane: From 17th street to Magnolia street

Church street: Adams avenue to Leiper street

Clark street: Haldeman avenue to Lott avenue

Comly street: From Saul street to Bustleton avenue

Coral street: From Sergeant street to Abigail street

Cottman avenue: From Oxford avenue to Central avenue

Crispin street: From Wellington street to Solly avenue

Dauphin street: From 26th street to 12th street

Dauphin street: From 11th street to Hope street

Diamond street: From Hope street to 5th street

Dorchester street: From Waldemire Drive to Kipling lane

Emerald street: From Sergeant street to Tioga street

Erie avenue: From Kensington avenue to O street

Fairmount avenue: From 42nd street to 44th street

Foulkrod street: From Leiper street to Oakland street

Fox street: From Queen lane to Allegheny avenue

Frankford avenue: From Tioga street to Torresdale avenue

Frankford avenue: From Solly avenue to Morrell avenue

Frankford avenue: From Knights road to City of Philadelphia limits

Germantown avenue: Bethlehem Pike to Bells Mill road

Girard avenue: From 51st street to 55th street

Godfrey avenue: From 18th street to 17th street

Grant avenue: From Hilspach street to Welsh road

Greene street: From Chelten avenue to Tulpehocken street

Greenway avenue: From 70th street to 65th street

Haldeman avenue: From Roosevelt Boulevard to Clark street

Hawthorne street: From Robbins street to Tyson avenue

Hilspach street: From Lott avenue to Grant avenue

Indiana avenue: From 25th street to 26th street

Island avenue: From Woodland avenue to Bartram avenue

Jasper street: From Arizona street to Sergeant street

Jefferson street: From 16th street to 17th street

Jefferson street: From 52nd street to 53rd street

Keswick road: From Morrell avenue to Red Lion road

Kingsessing avenue: From 65th street to 56th street

Kingsessing avenue: From 54th street to 49th street

Kipling lane: From Dorchester road to Oakhill road

Knights road: From Oakhill road to Frankford avenue

Lakeside avenue: From 70th avenue to 12th street

Lancaster avenue: From 46th street to 52nd street

Leiper street: From Church street to Foulkrod street

Lott avenue: From Clark street to Hilspach street

Ludlow street: From 36th street to 42nd street

Magnolia street: From Church lane to Cheltenham avenue

Master street: From 17th street to 16th street

Morrell avenue: From Frankford avenue to Keswick road

O street: From Erie avenue to Cayuga street

Oakford street: From 31st street to 28th street

Oakhill road: From Kipling lane to Knights road

Oakland street: From Foulkrod street to Wakeling street

Old York road: From 65th avenue to Chelten avenue

Oxford avenue: From Verree road to Cottman avenue

Parkside avenue: From 53rd street to Bryn Mawr avenue

Parrish street: From 44th street to 46th street

Paschall street: From 49th street to Grays Ferry avenue

Pine street: Fro 56th street to 59th street

Queen lane: From Wissahickon avenue to Fox street

Red Lion road: From Keswick road to Waldemire Drive

Ridge avenue: From Bells Mill road to City of Philadelphia limits

Robbins street: From Bustleton avenue to Hawthorne street

Saul street: From Wakeling street to Comly street

School House lane: From Germantown avenue to Wissahickon avenue

Sergeant street: From Jasper street to Coral street

Snyder avenue: From 28th street to Passyunk avenue

Solly avenue: From Crispin street to Frankford avenue

Tioga street: From Emerald street to Frankford avenue

Torresdale avenue: From Frankford avenue to Kensington avenue

Tulpehocken street: From Greene street to Chew avenue

Tyson avenue: From Hawthorne street to Charles street

Verree road: From Alburger avenue to Oxford avenue

Vine street: From 55th street to 56th street

Wakeling street: From Oakland street to Saul street

Waldemire Drive: From Red Lion road to Dorchester road
Warren street: From 52nd street to 51st street
Wellington street: From Charles street to Crispin street
Welsh road: From Grant avenue to Alburger avenue
Wingohocking street: From Castor avenue to Adams avenue
Wissahickon avenue: From School House lane to Queen lane
Woodland avenue: From 70th street to Island avenue
Woodland avenue: From 56th street to 54th street

(b) Cavalier is authorized to install facilities within existing underground ducts in the following public rights-of-way subject to permission of the duct owner:

9th street: From Callowhill street to Moravian street
17th street: From Moravian street to South street
17th street: From Carlton street to Arch street
22nd street: From Arch street to Market street
31st street: From Grays Ferry avenue to Oakford street
36th street: From Market street to Ludlow street
52nd street: From Lancaster avenue to Jefferson street
56th street: From Market street to Ludlow street
Arch street: From 17th street to 22nd street
Cheltenham avenue: From Osceola street to Greene street
Coral street: From Abigail street to Front street
Dauphin street: From 12th street to 11th street
Dauphin street: From Hope street to Jasper street

Diamond street: From Front street to Hope street

Front street: From Coral street to Diamond street

Germantown avenue: From Mount Airy avenue to Bethlehem pike

Germantown avenue: From Cheltenham avenue to School House lane

Grays Ferry avenue: From Paschall avenue to 31st street

Jasper street: From Dauphin street to Arizona street

Market street: From 22nd street to 36th street

Moravian street: From 9th street to 17th street

Mount Airy avenue: From Chew avenue to Germantown avenue

Passyunk avenue: From Snyder avenue to Broad street

Roosevelt Boulevard: From City of Philadelphia limits to Haldeman avenue

(b) Cavalier is authorized to install new underground ducts and appurtenances in the following public rights-of-way:

70th street: From City of Philadelphia limits to Regent avenue

84th street: From Bartram avenue to Lindbergh Boulevard

Callowhill street: From 8th street to 9th street

The said Telecommunications System shall be constructed in accordance with the requirements and under the supervision of the Department of streets, without interference with any existing surface or subsurface structures, and shall be used by Cavalier 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.

The permission granted by this Ordinance is conditioned upon the approval of the Department of Streets

as to construction and the installation of Cavalier's facilities at any location along the specified route and is not a guaranty that Cavalier'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 Cavalier must by law obtain prior to construction or occupancy of existing conduit in the public right-of-way.

All telecommunication facilities within a railroad right-of-way that includes an alteration to a rail/highway crossing as that is 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.

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 other governmental entity itself or by contract, the Department of streets shall provide Cavalier with written notice, at least one hundred eighty (180) days prior to any required action of Cavalier to relocate said portion of the Telecommunications System. Within one hundred eighty (180) days of service of said notice upon Cavalier, Cavalier shall relocate said portion of the Telecommunications System and restore the roadway and footway disturbed by the relocation to the then existing condition, without expense to the City. In the event that Cavalier is required to remove any portion of the Telecommunications System at the request of the City, the Department of streets shall cooperate with Cavalier 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 intervening pathways or alleyways. Before any such extensions are made, Cavalier 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 which serve as replacement and alternative right-of-way in relocating Cavalier 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 Cavalier 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 use in, under, over, along and across the streets, sidewalks, alleyways, easements and right-of-ways within the City of Philadelphia, and 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, Cavalier shall enter into an agreement (“Agreement”) with the appropriate City department or departments, in form satisfactory to the City Solicitor, to provide that Cavalier 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 Cavalier’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 Cavalier’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; and

(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.

SECTION 6. 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 7. The permission granted to Cavalier to construct, maintain and operate, replace and remove a telecommunication system along, over, in and under the 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 Cavalier has not entered into the Agreement as required by Section 5 within one (1) year after this Ordinance becomes law.

SECTION 8. The permission granted to Cavalier 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 Cavalier, its successors, assigns, and agents have substantially completed the construction of the new facilities authorized herein. A change in ownership of the assets of Cavalier 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 9. 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 the City of Philadelphia's costs associated with such transfer within 30 days of the costs being submitted to the transferee or the transferee's

authorized agent.

SECTION 10. 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.