

**O-17-54**  
**10/18/17**

**ORDINANCE AUTHORIZING THE EXECUTION OF A RIGHTS-OF-WAY AND POLE ACCESS AGREEMENT BETWEEN THE CITY OF BAYONNE AND MOBILITIE, LLC TO PERMIT THE INSTALLATION OF ANTENNAS AND RELATED COMMUNICATIONS EQUIPMENT ON CERTAIN EXISTING UTILITY POLES AND IF NECESSARY TO INSTALL UTILITY POLES WITHIN CERTAIN PUBLIC RIGHTS-OF-WAY FOR PURPOSES OF PROVIDING TELECOMMUNICATION SERVICES**

**WHEREAS**, Mobilitie, LLC d/b/a NYFI (“Mobilitie”), 2220 University Drive, Newport Beach, CA 92660 is a telecommunications carrier authorized to provide services by the New Jersey Board of Public Utilities (“BPU”) and the Federal Communications Commission (“FCC”); and

**WHEREAS**, Mobilitie has requested that the City of Bayonne (“City”) grant it permission to construct, install, operate, and maintain antennas and related telecommunications equipment on existing utility poles located in the public rights-of-way and, if and where necessary, to install utility poles to accommodate such antennas and equipment within the public rights-of-way for the purpose of installing, operating, repairing, and maintaining a telecommunications system (“Scope of Work”) as attached hereto as Exhibit A; and

**WHEREAS**, Mobilitie agrees to execute a Use Agreement for a ten (10) year period commencing on a date to be agreed by the City with four (4) additional five (5) year periods unless the City notifies Mobilitie of its intent not to renew at least (90) days prior to the end of the then current term; and

**WHEREAS**, Mobilitie agrees to pay the City fees and cost as attached hereto as Exhibit B; and

**WHEREAS**, Mobilitie agrees to pay the City’s reasonable additional costs and expenses incurred by the City for professional and legal fees, police oversight and any other expenses to be incurred by the City as a result of the Scope of Work; and

**WHEREAS**, N.J.S.A. 48:17-10 and N.J.S.A. 40:67-1 authorize the City to grant municipal consent for the Scope of Work presented by Mobilitie in the City’s rights-of-way; and

**WHEREAS**, it is deemed to be in the best interest of the City and its citizenry, including the commercial and industrial citizens, for the City to grant municipal consent to Mobilitie to occupy said public rights-of-way within the City for this purpose; and

**WHEREAS**, the granting of such consent is and shall be conditioned upon Mobilitie’s continued compliance with all existing and future ordinances of the City and its entering into this Use Agreement with the City; and

**WHEREAS**, Mobilitie agrees to indemnify, defend and hold the City harmless as to all claims and liability resulting from any injury or damage which may arise from the construction, installation, operation, repair, maintenance, disconnect, replacement and removal of its telecommunications facilities within certain public rights-of-way.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPALCOUNCIL OF THE CITY OF BAYONNE THAT:**

1. Non-exclusive consent is hereby granted to Mobilitie to use certain public rights-of-way within the City for the purpose of installation, operation, repair, and maintenance of a telecommunications system for a period of ten (10) years, commencing on a date to be agreed by the City with four (4) additional five (5) year periods unless the City notifies Mobilitie of its intent not to renew at least (90) days prior to the end of the then current term subject to the mutual covenants and obligations as set forth in a Rights-of-Way and Pole Access Agreement acceptable to the Law Department.
2. The within granted permission is conditioned upon Mobilitie's executing said Rights-of-Way and Pole Access Agreement (the "Agreement") in a form acceptable to the Law Department and pays all fees and expenses as specified as reflected by said Agreement and provides insurance coverage naming the City as "additional insured."
3. The Mayor and City Clerk are hereby authorized to execute said Rights-of-Way and Pole Access Agreement.

DMR:nmi

EXHIBIT A



41 Broadway, Suite 201  
New York, New York 10012  
www.mobilite.com

Sept 11, 2017

Donna Russo  
City of Bayonne  
630 Ave C  
Bayonne, New Jersey

Dear Donna,

Here is a brief explanation of MobiLitie and the build plan for the City of Bayonne to meet the growing demand for connectivity. MobiLitie is deploying a national hybrid transport network that provides high-speed, high-capacity bandwidth to facilitate the next generation of devices and data-driven services. As part of this network buildout, MobiLitie has identified potential installation sites across Bayonne. Currently our build plan is made up of 21 sites. There are 14 which will require the installation of 50 ft. new wooden utility poles and 7 sites which will require our equipment to be attached to existing PSE&G utility poles.

As we previously discussed, this project is being pursued on behalf of Sprint. Our strategy is to focus on coverage improvements and capacity enhancements to provide customers a faster, stronger and more reliable service experience. These service improvements for your constituents are made possible through the deployment of small cells which will specifically help achieve this by focusing dedicated coverage and capacity to specified areas. In New York City, for example we have observed a 10% increase in data tonnage by deploying small cells. The company has achieved coverage improvements by reaching more users within buildings, helping them stay connected longer and have helped secure capacity increases to support future demand.

This increase capacity is clearly needed in Bayonne. Data growth year over year for Northern Jersey has continued to increase significantly. The area has seen an increase of 115% between 2015 to 2016 and a two-year increase of 226%. Solutions like small cells which MobiLitie is looking to deploy in Bayonne rights of way are required to stay ahead of demand.