

**AN ORDINANCE TO AUTHORIZE THE EXECUTION OF A RIGHT OF WAY USE AGREEMENT WITH CROWN CASTLE NG EAST, LLC FOR THE INSTALLATION OF DISTRIBUTED ANTENNA SYSTEM NODES IN THE PUBLIC RIGHT OF WAY**

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**#4365**

**Sponsor:**

**WHEREAS**, pursuant to City Charter Sec. 2-308, the City Council may by ordinance authorize the leasing of real estate and the execution of contracts that have a duration exceeding one year; and

**Council  
President  
Shabazz**

**WHEREAS**, the State of Delaware, by granting the City's home rule charter, has given the City the authority to control the lands within the City's corporate limits, including the public rights of way therein; and

**Co-Sponsors:**

**Council  
Members  
Turner  
Williams**

**WHEREAS**, Crown Castle, a recognized Public Utility by the Delaware Public Services Commission, owns, maintains, operates and controls fiber-based telecommunications networks serving Crown Castle's wireless carrier customers and utilizing microcellular optical converter equipment certified by the Federal Communications Commission; and

**WHEREAS**, For the purpose of expanding network access and reliability, Crown Castle wishes to locate, place, attach, install, operate, control, and maintain, upgrade and enhance telecommunication equipment in the public right of way on facilities owned by the City, as well as on facilities owned by third parties therein; and

**WHEREAS**, the City has worked with Crown Castle to review proposed locations for the placement, attachment, installation and operation of said equipment to ensure the needs of Wilmingtonians are met as it relates to cellular telephone technology; and

**WHEREAS**, Crown Castle's proposal calls for the installation of 33 Distributed Antenna System ("DAS") Nodes in the City of Wilmington, by virtue of attachment to existing power or telecommunication poles or by virtue of the installation of a new pole to house the DAS Node installation in the public right of way; and

**WHEREAS**, the City has been furnished with studies regarding acceptable level of Radio Frequency emissions from the proposed Node locations, with the overall maximum calculated emissions level being only approximately one (1) percent of the maximum allowable by the Federal Communications Commission; and

**WHEREAS**, the installation of the Nodes will make Wilmington more competitive with other cities by bolstering cell phone service not only for residents, but also for visitors that are attracted to Wilmington for business and recreational events; and

**WHEREAS**, the installation of the DAS Nodes will be governed by the Right of Way Use Agreement attached hereto as "Exhibit A", or a substantially similar agreement.

**NOW THEREFORE THE COUNCIL OF THE CITY OF WILMINGTON  
HEREBY ORDAINS:**

**SECTION 1. Authorization of the Agreement.** The City is hereby authorized to execute the Right of Way Use Agreement attached hereto as "Exhibit A", or a substantially similar agreement.

**SECTION 2. Further Action.** The appropriate officers of the City are hereby authorized and directed to take all such actions, and to execute, deliver, file and record all such documents, publish all notices, make all required payments and otherwise carry out the intent of this Ordinance in the name of and on behalf of the City.

**SECTION 3. Effective Date.** This Ordinance shall become effective upon its passage by Council and approval by the Mayor.

First Reading . . . May 18, 2017  
Second Reading . . . May 18, 2017  
Third Reading . . . . .

Passed by City Council,

\_\_\_\_\_  
President of City Council

ATTEST: \_\_\_\_\_  
City Clerk

Approved as to form this \_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Assistant City Solicitor

Approved this \_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Mayor

**SYNOPSIS:** This Ordinance authorizes the City to enter into a Right of Way Use Agreement with Crown Castle NG East, LLC to allow for installation in the public right of way DAS Nodes which will increase the reliability and connectivity of cellular telephone technology.

### **FISCAL IMPACT**

The City will be paid an amount equal to 5 percent (5%) of Gross Revenues received by Crown Castle from cellular carriers using their DAS Nodes when said Nodes are attached to either third-party-property or poles owned by Crown Castle within the Public Way, or \$1,000 a year for the use of City owned poles.