ORDINANCE NO. 5090

AN ORDINANCE TO AMEND
ORDINANCE NO. 5016, SECTION 4,
TO STATE THE PROPER ORDER
OF CITY OFFICIALS: NOTICE OF
NEW CONSTRUCTION OR WORK
SHALL BE PROVIDED TO THE
CONSTRUCTION OFFICIAL AND
STREET OPENING PERMITS
SHALL BE OBTAINED FROM THE
ENGINEERING DIVISION

BE IT ORDAINED, by the City Council
of the City of Elizabeth, County of Union,
New Jersey, that:

SECTION 1: Pursuant to the provisions
and N.J.S.A. 48:17-12, permission
and consent is hereby granted to Verizon New
Jersey Inc. (the “Company”), its
successors and assigns, the non-exclusive
right to install, operate, inspect, maintain,
repair, replace and remove its
communications facilities and other
transmission or process equipment,
including underground facilities, such as
cables, manholes, poles, wires, and all
other facilities appurtenant thereto,
and above-ground facilities, such as cables,
wires, antennas, poles, posts, supports,
guy, pedestals, cable termination and
distribution cabinets and all other facilities
appurtenant thereto, in, through, upon,
along, over, under, and across all of the
various public streets and ways, which
include the roads, avenues, right-of-way,
sidewalks, highways, bridges, waterways,
and other public places, and parts thereof,
throughout their entire length, end to
effect the necessary street openings and
lateral connections to curb poles, property
lines and other facilities in the City of
Elizabeth, County of Union, County (the
"City") for said Company's local and
through lines and other communications
facilities in connection with the
transaction of its business. In the event
that any public street or way where the
Company has facilities is vacated by the
City, the City agrees to reserve unto said
Company the rights granted the Company
by the present Ordinance.

SECTION 2: All poles, posts, pedestals,
cabinets, or other facilities shall be located
and placed back of the curb lines where
shown on the official map(s) of the City
the poles and posts, however, shall be
located within eighteen (18) inches of the
face of such curb line or as may otherwise
be mutually agreed by both parties or
required by law, or at the points or places
now occupied by the poles, posts,
pedestals, cabinets, or other facilities of
the Company, its successors and assigns,
and where there are no curb lines, at other
convenient points or places in, upon,
along, adjacent, or across the public
streets and ways as may be mutually
agreed upon between the parties.

SECTION 3: The Company may bury its
local and through communications
facilities such as cables, conduit,
manholes and associated equipment,
fixtures, process equipment and
appurtenances within the right-of-way of
the various public streets and ways and at
such locations as shall be mutually agreed
upon by the parties for said Company's
local and through lines and
communications facilities. Underground
conduits and associated facilities, as
aforementioned, shall be placed at least
eighteen (18) inches below the surface of
said public streets and ways and with the
exception of lateral branches to curb poles
and property lines and other facilities, the
same shall generally not be constructed
more than ten (10) feet from the curb line,
unless obstructions make it necessary to
deviate from such course or unless the
parties mutually agree to another location.
Manholes shall be located at such points
along the line of underground conduits as
may be necessary or convenient for
placing, maintaining, and operating the
facilities, as aforesaid, which the
Company may from time to time use in
connection with its underground conduit
system and shall be so constructed as to
conform to the cross-sectional and
longitudinal grade of the surface so as not
to interfere with the safety or convenience
of persons or vehicles.

SECTION 4: Before proceeding with
any new construction or relocation work
in an area covered by this Ordinance, the
Company shall give prior notice in writing
to the City, through its designated
representative, the Construction Official,
of its intention to perform such work. The
Company shall obtain such street opening
or excavation permits as may be lawfully
required by any applicable ordinances
regulating such openings or excavations
from the City's Engineering Division. Any
such area affected by the Company in
constructing its facilities shall be restored
to as good condition as it was before the
commencement of work thereon. No
public streets or ways shall be
cumbered for a period longer than shall be
reasonable to execute the work.
SECTION 5: The Company agrees to indemnify and save harmless the City from and against all claims and liabilities resulting from any injury or damage to the person or property of any person, firm or corporation caused by or arising out of road conditions resulting from any negligent or faulty excavations, installation or maintenance connected with the work or equipment of said Company, and not attributable to the fault or negligence of the City, except that if such injury or damage shall be caused by the joint or concurring negligence or fault of the Company and the City, the same shall be borne by them to the extent of their respective fault or negligence.

SECTION 6: Whenever a curb line shall be established on streets where one does not now exist or where an established curb line shall be relocated in order to widen an existing street in conjunction with road construction being performed by the City the Company shall change the location of its above-ground facilities covered by this Ordinance in accordance with applicable law, so that the same shall be back of, and adjacent to, the new curb line so long as the City has acted in accordance with applicable law and with reasonable care in establishing the new curb line and providing notice thereof.

SECTION 7: Any company or corporation having legal authority to place its facilities in the public streets and ways of the City may jointly use the Company's poles, posts, pedestals or other structures for all lawful purposes, provided the Company consents to such use, on terms and conditions acceptable to the Company and not inconsistent with the provisions of the present Ordinance.

SECTION 8: The Company shall provide space, to the extent available, on its poles so long as said poles are occupied by the Company and space, to the extent available, in its main conduits existing on the date of passage of this Ordinance, but not exceeding one (1) duct of standard size, for the sole benefit of the City during the pendency of this Ordinance. Such space shall be provided for the exclusive use of the City which use shall be limited to accommodating the wires or electrical conductors required for one-way signal control in connection with municipal police patrol, fire alarm signal control and traffic signal control systems only; but for no other uses or purposes, either alone or in conjunction therewith; nor for circuits for the supply of electrical energy for traffic or other signals; nor for wires, conductors, cable or the equivalent which provide a means of transmitting any signal to a private, commercial or residential location, and which is normally provided by a nongovernmental supplier; provided, further, that no such use or attachment by the City shall interfere with the plant or facilities of or the use thereof by the Company. All costs or expenses incurred by the Company in connection therewith shall be paid by the City. It shall be the obligation of the City to attach its wires to the poles or place its electric conductors in the conduits or manholes of the Company, provided that before proceeding with said work, either by itself or by a person, firm or corporation engaged to perform such work, the City shall give the Company thirty (30) days prior notice in writing. All such work shall be performed under the supervision of said Company. The City agrees to indemnify and save harmless the Company from and against all claims and liabilities resulting from any injury or damage to the person or property of any person, firm or corporation caused by or arising out of the City's installation maintenance, operation or removal of wires or facilities or the City's use or enjoyment of the Company's plant or facilities as provided under this section, except that if such injury or damage shall be caused by joint or concurring negligence of the Company and City, the same shall be borne by them to the extent of their respective fault or negligence.

SECTION 9: If any or all of the said streets or ways are later taken over by the County of Union, or the State of New Jersey, such County or State shall have such rights and privileges and be subject to the same terms, conditions and limitations of use as apply herein to the City, provided, however, that satisfactory prior arrangements as may be necessary are made with the City and the Company for the full protection of the respective interest of each.

SECTION 10: The term "City" as used in this Ordinance shall be held to apply to and include the City of Elizabeth and any form of government into which the City or any part thereof may at any time hereafter be changed, annexed, or merged.

SECTION 11: The permission and consent hereby granted shall apply to and cover all communications facilities of the Company existing at any time, and related structures, process equipment, and appurtenances heretofore or hereafter erected, constructed, reconstructed, removed, located, relocated, replaced,
maintained, repaired, or operated by the Company, its predecessors, successors, or assigns within the City. This Ordinance shall cancel and supersede all prior consent ordinances between the City and the Company regarding the subject matter hereof.

SECTION 12: The consent granted to the Company by the City shall be from its previous expiration date of March 9, 2014 through March 9, 2029. This Ordinance shall continue in full force and effect for this period subject to the light of the Company to seek such changes herein as may be deemed necessary from time to time prior to the expiration of said period, said changes to be approved by the City. The Company shall maintain its property within the City and shall comply with applicable law for the provision of safe, adequate and proper service at just and reasonable rates at and after the term of this Ordinance, the Company shall safeguard the public interest in continuous and uninterrupted service within the City.

SECTION 13: In the event that any provision herein shall for any reason be illegal or unenforceable under applicable law, such illegality or unenforceability shall not affect any other provisions of this Ordinance. If any ordinance or part of ordinances are inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 14: The effective date of this Ordinance shall be twenty (20) days after its final passage by the City Council and approval by the Mayor and in the manner provided by law. The Company shall pay the expenses incurred for advertising required in connection with the passage of this Ordinance, after the date of its first reading, within thirty (30) days after the Company has received a bill for said advertising from the publisher. Following final passage of this Ordinance, the City Clerk shall provide the Company with written notice thereof by certified mail. As provided by applicable law, this Ordinance, and any subsequent amendments, shall not become effective until acceptance thereof by the Company and approval thereof by the Board of Public Utilities.

PASSED: 11-13-18

MANNY GROVA, JR.
PRESIDENT OF CITY COUNCIL

APPROVED: 11-19-18

J. CHRISTIAN BOLLWAGE
MAYOR

ATTEST:

YOLANDA M. ROBERTS, R.M.C.
CITY CLERK