

ORDINANCE NO. 108, SERIES 2014

AN ORDINANCE AWARDED A COMMUNICATIONS SERVICES FRANCHISE TO BGN NETWORKS LLC PURSUANT TO THE TERMS AND CONDITION IN CHAPTER 116.70 - 116.99 OF THE LOUISVILLE METRO CODE OF ORDINANCES

SPONSORED BY: COUNCILWOMAN MARIANNE BUTLER AND COUNCILMAN KEVIN J. KRAMER

WHEREAS, pursuant to Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances the Louisville/Jefferson County Metro Government ("Louisville Metro") solicited bid proposals from parties interested in obtaining franchises to erect, install or maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky; and

WHEREAS, BGN Networks LLC submitted a bid proposal to Louisville Metro for a communications services franchise which meets all of the requirements of Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances.

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:


Section 1. Louisville Metro hereby grants to BGN Networks LLC for a period of twenty (20) years, a non-exclusive franchise to erect, install or maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky pursuant to Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances and all other applicable state and federal laws.

Section 2. The franchise agreement by and between BGN Networks LLC and Louisville Metro as appended to this ordinance is hereby approved and the Mayor is hereby authorized to execute and enter into that agreement for and on behalf of Louisville Metro.

Section 3. That the statements set forth in the Preamble to this Ordinance are hereby incorporated in this Ordinance by reference, the same as if set forth at length herein.

Section 4. That if any section, sentence, clause or phrase of this Ordinance is held to be unconstitutional or otherwise invalid, such infirmity shall not affect the validity of the remainder of the Ordinance.

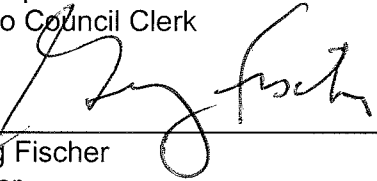
Section 5. This ordinance shall take effect upon its passage and approval.



H. Stephen Ott
Metro Council Clerk



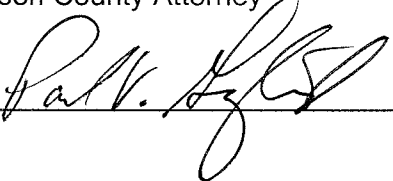
Jim King
President of the Council



Greg Fischer
Mayor

Date Approved: 7/31/14

APPROVED AS TO FORM AND LEGALITY:
Michael J. O'Connell
Jefferson County Attorney

By: 

**LOUISVILLE METRO COUNCIL
READ AND PASSED**
July 24, 2014

FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT made and entered into this ____ day of _____, 2014, by and between the Louisville/Jefferson County Metro Government (hereinafter "Louisville Metro"), and BGN Networks LLC.

WITNESSETH:

WHEREAS, pursuant to Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances and Sections 163 and 164 of the Kentucky Constitution, the Louisville Metro solicited bid proposals from parties interested in obtaining franchises to erect, install or maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky; and

WHEREAS, BGN Networks LLC submitted a bid proposal to Louisville Metro for a communications services franchise pursuant to the requirements of Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances.

WHEREAS, pursuant to Ordinance No. 108 Series 2014, Louisville Metro granted to BGN Networks LLC for a period of twenty (20) years, a non-exclusive franchise to erect, install or maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky pursuant to Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances.

WHEREAS, Louisville Metro and BGN Networks LLC have entered into this Franchise Agreement to memorialize the award by Louisville Metro to BGN Networks LLC of said franchise pursuant to the terms and conditions reflected in Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances.

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein the receipt and sufficiency of which are hereby acknowledged, Louisville Metro and BGN Networks LLC hereby agree to incorporate the foregoing recitals as if fully set forth herein and further agree as follows:

1. Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

2. The bid of BGN Networks LLC for said franchise, which is attached hereto as Exhibit "A", is incorporated herein by reference in its entirety and shall apply as if fully set forth herein.

3. Louisville Metro has granted unto BGN Networks LLC a non-exclusive franchise, for a term of ten (20) years to erect, install or maintain communications facilities or provide communication services by use of said communication facilities within the confines of Louisville/Jefferson County, Kentucky and as more specifically identified in the above-mentioned bid pursuant to Chapter 116.70 - 116.99 of the Louisville Metro Code of Ordinances.

4. The franchise memorialized in this Franchise Agreement shall commence _____, 2014, and shall expire on _____.

5. BGN Networks LLC does hereby bind itself, its successors and assigns, to faithfully and fully perform each and every condition of said franchise as memorialized in this Agreement, and further to faithfully perform all acts required of it as the purchaser of said franchise.

6. This Franchise Agreement memorializes the agreement between the parties and shall be binding upon and inure to the benefit of the respective successors in interest to the parties hereto.

IN WITNESS WHEREOF, Louisville Metro and BGN Networks LLC have executed this Franchise Agreement as their free and voluntary act and deed effective as of the day and year first above written.

LOUISVILLE/JEFFERSON
COUNTY METRO GOVERNMENT

Greg Fischer, Mayor

BGN NETWORKS LLC

By: _____

Its: _____

APPROVED AS TO FORM AND
LEGALITY:

Michael J. O'Connell
Jefferson County Attorney
