

# City of Philadelphia



(Bill No. 000402)

## AN ORDINANCE

Granting permission to Conectiv Communications, Inc., a Delaware Corporation, 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 to place such telecommunications system within the existing facilities owned by Bell Atlantic-PA, PECO Energy Company, Southeastern Pennsylvania Transportation Authority, CSX Corporation, Norfolk Southern Corporation, Consolidated Rail Corporation Shared Assets, or other entity holding a grant pursuant to other City ordinances, subject to such owner's consent; all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

**SECTION 1.** Permission is hereby granted to Conectiv Communications, Inc., 252 Chapman Road, Newark, Delaware 19714 (hereinafter "Conectiv") 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 within the existing facilities owned by Bell Atlantic-PA, PECO Energy Company, Southeastern Pennsylvania Transportation Authority, CSX Corporation, Norfolk Southern Corporation, Consolidated Rail Corporation Shared Assets, or any 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. Conectiv is not authorized by this Ordinance to provide to subscribers within the City "cable service," as defined at 47 U.S.C. § 522(5).

(a) Conectiv is authorized to install new manholes and/or appurtenances within the public rights of way and to connect the new manholes with existing utility conduits at the following ten (10) locations subject to the permission of the existing duct owner:

- (i) intersection of 9<sup>th</sup> Street and Race Street (manhole and conduit)
- (ii) intersection of 10<sup>th</sup> Street and Cherry Street (manhole and conduit)

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- (iii) intersection of Lombard Street and 16<sup>th</sup> Street (manhole and conduit)
- (iv) intersection of Lombard Street and 17<sup>th</sup> Street (manhole and conduit)
- (v) intersection of Arch Street and 17<sup>th</sup> Street (manhole and conduit)
- (vi) 17<sup>th</sup> Street between Arch Street and Cherry Street (manhole and conduit)
- (vii) intersection of Chestnut Street and 38<sup>th</sup> Street (manhole and conduit)
- (viii) intersection of Sansom Street and 38<sup>th</sup> Street (conduit)
- (ix) Ellen Street, east of Delaware Avenue (manhole and conduit)
- (x) 27<sup>th</sup> Street between Lombard Street and South Street (conduit).

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

Lombard Street:	From 16 <sup>th</sup> Street to 27 <sup>th</sup> Street
Pine Street:	From 13 <sup>th</sup> Street to Taney Street
Spruce Street:	From 11 <sup>th</sup> Street to 13 <sup>th</sup> Street
Walnut Street:	From 3 <sup>rd</sup> Street to 20 <sup>th</sup> Street
Sansom Street:	From 23 <sup>rd</sup> Street to 24 <sup>th</sup> Street

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Sansom Street:	From 38 <sup>th</sup> Street to 39 <sup>th</sup> Street
Chestnut Street:	From 3 <sup>rd</sup> Street to 6 <sup>th</sup> Street
Chestnut Street:	From 21 <sup>st</sup> Street to 23 <sup>rd</sup> Street
Chestnut Street:	From 24 <sup>th</sup> Street to 34 <sup>th</sup> Street
Chestnut Street:	From 38 <sup>th</sup> Street to 40 <sup>th</sup> Street
Ludlow Street:	From 23 <sup>rd</sup> Street to 24 <sup>th</sup> Street
Ludlow Street:	From 30 <sup>th</sup> Street to 32 <sup>nd</sup> Street
Market Street:	From Front Street to Juniper Street
Market Street:	From 15 <sup>th</sup> Street to 38 <sup>th</sup> Street
Filbert Street:	From 7 <sup>th</sup> Street to 8 <sup>th</sup> Street
J.F.K Boulevard:	From Juniper Street to 15 <sup>th</sup> Street
Arch Street:	From Front Street to 7 <sup>th</sup> Street
Arch Street:	From 8 <sup>th</sup> Street to 18 <sup>th</sup> Street
Cherry Street:	From 7 <sup>th</sup> Street to 10 <sup>th</sup> Street
Cherry Street:	From 16 <sup>th</sup> Street to 17 <sup>th</sup> Street
Cherry Street:	From 20 <sup>th</sup> Street to 23 <sup>rd</sup> Street
Race Street:	From 9 <sup>th</sup> Street to 16 <sup>th</sup> Street
Winter Street:	From 9 <sup>th</sup> Street to 10 <sup>th</sup> Street
Vine Street:	From 9 <sup>th</sup> Street to 10 <sup>th</sup> Street
Vine Street:	From 18 <sup>th</sup> Street to 20 <sup>th</sup> Street
Callowhill Street:	From Front Street to 16 <sup>th</sup> Street
Noble Street:	From 9 <sup>th</sup> Street to 10 <sup>th</sup> Street

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Noble Street:	From 13 <sup>th</sup> Street to Broad Street
Buttonwood Street:	From 17 <sup>th</sup> Street to 18 <sup>th</sup> Street
Spring Garden Street:	From Delaware Avenue to Front Street
Spring Garden Street:	From 2 <sup>nd</sup> Street to 17 <sup>th</sup> Street
Delaware Avenue:	From Spring Garden Street to Lewellyn Street
Front Street:	From Arch Street to New Street
Front Street:	From Callowhill Street to Spring Garden Street
2 <sup>nd</sup> Street:	From Spring Garden Street to Fairmount Avenue
5 <sup>th</sup> Street:	From Chestnut Street to Market Street
6 <sup>th</sup> Street:	From Walnut Street to Chestnut Street
6 <sup>th</sup> Street:	From Callowhill Street to Spring Garden Street
7 <sup>th</sup> Street:	From Market Street to Cherry Street
8 <sup>th</sup> Street:	From Arch Street to Callowhill Street
9 <sup>th</sup> Street:	From Cherry Street to Callowhill Street
9 <sup>th</sup> Street:	From Noble Street to Green Street
10 <sup>th</sup> Street:	From Winter Street to Vine Street
10 <sup>th</sup> Street:	From Callowhill Street to Noble Street
11 <sup>th</sup> Street:	From Spruce Street to Walnut Street
12 <sup>th</sup> Street:	From Market Street to Arch Street
13 <sup>th</sup> Street:	From Pine Street to Walnut Street
13 <sup>th</sup> Street:	From Callowhill Street to Noble Street
Juniper Street:	From Market Street to Filbert Street

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Broad Street:	From Pine Street to Penn Square
Broad Street:	From Callowhill Street to Spring Garden Street
15 <sup>th</sup> Street:	From Market Street to J.F.K. Boulevard
16 <sup>th</sup> Street:	From South Street to Arch Street
16 <sup>th</sup> Street:	From Cherry Street to Callowhill Street
17 <sup>th</sup> Street:	From Arch Street to Cherry Street
17 <sup>th</sup> Street:	From Buttonwood Street to Spring Garden Street
18 <sup>th</sup> Street:	From Lombard Street to Pine Street
18 <sup>th</sup> Street:	From Market Street to Cherry Street
18 <sup>th</sup> Street:	From Vine Street to Buttonwood Street
20 <sup>th</sup> Street:	From Arch Street to Vine Street
21 <sup>st</sup> Street:	From Chestnut Street to Market Street
23 <sup>rd</sup> Street:	From Sansom Street to Ludlow Street
23 <sup>rd</sup> Street:	From Market Street to Race Street
24 <sup>th</sup> Street:	From Pine Street to Ludlow Street
Taney Street:	From Lombard Street to Pine Street
30 <sup>th</sup> Street:	From Ludlow Street to Market Street
32 <sup>nd</sup> Street:	From Chestnut Street to Ludlow Street
34 <sup>th</sup> Street:	From Civic Center Boulevard to Chestnut Street
Civic Center Boulevard:	From University Avenue to 34 <sup>th</sup> Street
University Avenue:	From Civic Center Boulevard to Woodland Avenue
38 <sup>th</sup> Street:	From Sansom Street to Market Street

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Woodland Avenue:	From University Avenue to 40 <sup>th</sup> Street
40 <sup>th</sup> Street:	From Woodland Avenue to Chestnut Street
17 <sup>th</sup> Street:	From Lombard Street to Pine Street
Ellen Street:	From Penn Street to Delaware Avenue
27 <sup>th</sup> Street:	From South Street to Lombard Street
South Street:	From 16 <sup>th</sup> Street to 27 <sup>th</sup> Street.

(c) Conectiv 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:

Wood Street:	From 10 <sup>th</sup> Street to 13 <sup>th</sup> Street
Carlton Street:	From 13 <sup>th</sup> Street to Broad Street
Willow Street:	From 8 <sup>th</sup> Street to Noble Street
Noble Street:	From Willow Street to 13 <sup>th</sup> Street
Fairmount Avenue:	From 2 <sup>nd</sup> Street to 13 <sup>th</sup> Street
Laurel Street:	From Delaware Avenue to 2 <sup>nd</sup> Street
Delaware Avenue:	From Lewellyn Street to Laurel Street
2 <sup>nd</sup> Street:	From Fairmount Avenue to Laurel Street
8 <sup>th</sup> Street	From Willow Street to Fairmount Avenue
10 <sup>th</sup> Street:	From Wood Street to Noble Street
13 <sup>th</sup> Street:	From Wood Street to Callowhill Street
13 <sup>th</sup> Street:	From Noble Street to Fairmount Avenue.

(d) Conectiv must submit proof of authorization from the governmental body responsible for maintaining any highway bridge crossing over a railroad right of way if

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the Telecommunications System listed in this Section is constructed on or attached to any such bridges.

(e) 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 Conectiv 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.

(f) The permission granted by this Ordinance is conditioned upon the approval of the Department of Streets as to the construction and installation of Conectiv's facilities at any location along the specified route and is not a guaranty that Conectiv'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 Conectiv must by law obtain prior to construction or occupancy of existing conduit in the public right-of-way.

(g) All telecommunication facilities constructed pursuant to this Ordinance within a railroad right of way that includes an alteration to a rail/highway crossing, which includes such crossings as they are 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 by another governmental entity, or by contract with the City or with any governmental entity, the Department of Streets shall provide Conectiv with written notice at least one hundred eighty (180) days prior to the date any action would be required by Conectiv to relocate said portion of the Telecommunications System. Within one hundred eighty (180) days of service of said notice upon Conectiv, Conectiv shall relocate said portion of the Telecommunications System and restore the roadway and footway disturbed by the relocation to the condition it was in prior to the relocation, without expense to the City. In the event that Conectiv is required to remove any portion of the Telecommunications System at the request of the City, the Department of Streets shall cooperate with Conectiv 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.

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**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 by intervening pathways or alleyways. Before any such extensions are made, Conectiv 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 deviations which serve as replacement and alternative right-of-ways in relocating Conectiv 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 Conectiv 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 subsequently enacted related to the right of occupancy and to use of property in, under, over, along and across the streets, sidewalks, alleyways, easements and right-of-ways within the City of Philadelphia. Such permission is also subject to the terms and conditions of 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, Conectiv shall enter into an agreement (“Agreement”) with the appropriate City department or departments, in form satisfactory to the City Solicitor, to provide that Conectiv 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 Conectiv’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 Conectiv’s Telecommunications System;

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(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;

(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;

(f) Submit confirmation in a form acceptable to the City Solicitor from the owner of any existing utility pole and/or existing underground conduit that Conectiv has authorization to occupy the underground conduit or attach to the utility pole; and

(g) Remove any or all portions of the Telecommunications System from the public rights of way when the Telecommunications System or a portion of the Telecommunications System is no longer used for the purpose authorized by the ordinance or existing law.

**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 Conectiv to construct, maintain and operate, replace and remove a telecommunication system along, in and under rights of way, 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 Conectiv 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 Conectiv 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 Conectiv, its successors, assigns, and agents have substantially completed the construction of the new facilities authorized herein. A change in ownership of the assets of Conectiv 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 all costs incurred by the City of Philadelphia associated with such transfer within 30 days of the date the City submits such costs to the transferee or the transferee's authorized agent.

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**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.

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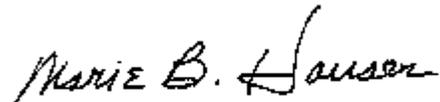
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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 22, 2000. The Bill was Signed by the Mayor on September 12, 2000.

A handwritten signature in black ink that reads "Marie B. Hauser". The signature is written in a cursive style with a large, looped initial "M".

Marie B. Hauser  
Chief Clerk of the City Council