

City of Philadelphia



(Bill No. 010391)

AN ORDINANCE

Granting permission to Williams Communications, LLC., its successors and assigns to construct, maintain, operate, replace, and remove a telecommunications system under certain public rights-of-way and City streets and or to place such telecommunications system within existing conduit facilities owned by Verizon-PA, Inc., PECO Energy Company, Southeastern Pennsylvania Transportation Authority, CSX Corporation, Norfolk Southern Corporation, Consolidated Rail Corporation, National Passenger Railroad Corporation or other entities holding a legal grant pursuant to other City ordinances; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Williams Communications, LLC., P.O. Box 22064, Tulsa, Oklahoma 74121-2064 (hereinafter "Williams") and its successors , assigns, and agents to construct, maintain, operate replace and remove a telecommunications system and appurtenances in and under the public rights-of-way of the City of Philadelphia and within existing facilities owned by Verizon-PA, Inc., PECO Energy Company, Southeastern Pennsylvania Transportation Authority, CSX Corporation, Norfolk Southern Corporation, Consolidated Rail Corporation, National Passenger Railroad Corporation or other entities holding a legal grant pursuant to other City ordinances, subject to such owner's consent; and to construct, lay, operate, maintain, replace and remove new telecommunication cables, conduit, access manholes and associated appurtenances (collectively, the "Telecommunications System") to create a system used to transmit, receive and distribute telecommunications, provided that Williams is not authorized by this Ordinance to provide to subscribers within the City "cable services," (as defined at 47 U.S.C. §522(6)), or "video programming" (as defined at 47 U.S.C. §522(20)) as an open video system operator pursuant to 47 U.S.C. §573(a) or otherwise.

(a) Williams is authorized to install its facilities within the following existing underground conduits that are in the public right-of-way, subject to the permission of the owner of the conduit and provided that the existing underground conduits in the public right-of-way listed in this section are legal and authorized by the City of Philadelphia:

Locust street:	From the building 2401 Locust street to Twenty-fourth street
Twenty-fourth street:	From Locust street to Manning street
Manning street:	From Twenty-fourth street to Twenty-third street

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Twenty-third street:	From Manning street to South street
South street:	From Twenty-third street to Broad street
Broad street:	From South street to Locust street
Locust street:	From Broad street to Eighth street
Eighth street:	From Locust street to Arch street
Arch street:	From Eighth street to the Building 801 Arch street

(b) Williams is authorized to construct and install new underground conduit, cables, access manholes and related appurtenances to provide access to properties at the following locations:

(1) 2401 Locust street

Conduit extending from an existing private manhole located in the north footway of Locust street approximately three feet (3') north of the north curb line of Locust street and one hundred and thirty-two feet (132') west of the west curb line of Twenty-fourth street; then extending south across and under the north footway and into the Locust street cartway and continuing to a point located approximately twenty feet (20') south of the north curb line of Locust street and ninety feet (90') west of the west curb line of Twenty-fourth street. The conduit continues in an eastwardly direction for approximately one hundred and twenty-five feet (125'), then turns northeastwardly at an angle of approximately forty-five degrees (45°). The conduit continues into the Twenty-fourth street cartway for approximately twenty-seven feet (27') and connects to an existing PECO Energy manhole located approximately one foot (1') south of the north curb line of Locust street and thirteen feet (13') east of the west curb line of Twenty-fourth street.

(2) 801 Arch street

Conduit beginning at an existing ventilation shaft wall on the south face of the building 801 Arch street. The ventilation shaft is located approximately ninety feet (90') west of the west curb line of Eighth street. The conduit extends from the ventilation shaft in a southwardly direction across the north right-of-way line of Arch street, completely across the north footway and into the Arch street cartway to an existing PECO Energy manhole (#63479) located approximately three feet (3') north of the south curb line of Arch street and eighty-six feet (86') west of the west curb line of Eighth street.

(c) The said Telecommunications System shall be constructed in accordance with the requirements of, and under the supervision of, the Department of Streets. The Telecommunications System shall be constructed without interference with any existing surface or subsurface structures, and shall be used by Williams and/or its successors and assigns exclusively for the purposes set forth in this Section and in accordance with all

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ordinances of the City of Philadelphia and regulations of the City of Philadelphia and the Committee of Highway Supervisors governing the construction, maintenance, and operation of underground structures and the equipment, facilities and/or appurtenances placed therein.

(d) The permission granted by this Ordinance is conditioned upon the approval of the Department of Streets as to the construction and installation of Williams facilities at any location along the specified route in this Section and is not a guaranty that the facilities can be placed at any particular location along the 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 Williams must by law obtain prior to construction or occupancy of existing conduit within the public right-of-way.

(e) All facilities within a railroad right-of-way that include 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.

(f) Williams must submit, in a form acceptable to the City Solicitor's Office, proof of authorization from the governmental body responsible for maintaining any highway bridge crossing over a railroad right-of-way, private property or over another public right-of-way if a conduit is constructed on or attached to any such bridge(s).

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 Williams with written notice at least one hundred eighty (180) days prior to the date any action would be required by Williams to relocate said portion of the Telecommunications System. Within one hundred eighty (180) days of service of said notice upon Williams, Williams 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 cost or expense to the City. In the event that Williams is required to remove any portion of the Telecommunications System at the request of the City, the Department of Streets shall cooperate with Williams 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; such alternative location as may be approved by the Streets Department is hereby authorized.

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

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extensions are made, Williams 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 that serve as replacements and alternative right-of-ways in relocating Williams pursuant to Section 2 of this Ordinance. All deviations which extend more than three (3) blocks from the approved route shall require additional authorization from City Council.

SECTION 4. The permission granted to Williams by this Ordinance 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 that are related to the right of occupancy and use of property in, under, over, along and across the streets, sidewalks, alleyways, easements and rights-of-way 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, Williams shall enter into an agreement (“Agreement”) with the appropriate City department or departments, in form satisfactory to the City Solicitor, to provide that Williams 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 any facilities owned by Williams’ 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 Williams’ Telecommunications System.

(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 may now or in the future impose for a licensee’s occupation of City property, streets and rights-of-way.

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(f) Remove any or all portions of the conduit or Telecommunications System listed in Section 1 from the public rights-of-way pursuant to applicable City specifications within sixty (60) days when the Telecommunications System and/or conduit is no longer used for the purpose authorized by this Ordinance or existing law.

(g) Make necessary adjustments, or reimburse the City for making adjustments, to any manhole constructed as part of the conduit approved in Section 1 when instructed to do so by the Streets Department in preparation of a street paving project.

(h) Mark each manhole constructed as part of the Telecommunications System approved in Section 1 with identification of the owner of the manhole in a manner designated by the City.

(j) Provide documentation in a form acceptable to the City of Philadelphia from the owner(s) of the two (2) properties listed in Section 1 that the owner(s) have granted Williams permission to install Williams's facilities into the building.

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 Williams to construct, maintain and operate, replace and remove a Telecommunications System in the 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 Williams 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 Williams and its successors, assigns, and agents for installation and or construction of the conduit along the route identified in this Ordinance shall expire without any further action by the City of Philadelphia unless Williams has completed the construction of the conduit authorized herein within two (2) years after the date this Ordinance becomes law. A change in ownership of the assets of Williams does not, without express written permission of the City of Philadelphia, extend the time for completing construction of the conduits authorized herein.

SECTION 9. The City reserves the right to charge a transfer fee for any agreement transferring the rights-of-way license from one entity to another so as to insure that all costs incurred by the City related to the transfer are reimbursed. The transferee must pay all costs incurred by the City associated with such transfer within thirty (30) days of the date the City submits such costs to the transferee or the transferee's authorized agent.

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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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 14, 2001. The Bill was Signed by the Mayor on August 31, 2001.



Marie B. Hauser
Chief Clerk of the City Council