

CITY OF COLUMBIA, ILLINOIS
ORDINANCE NO. 3677

AN ORDINANCE AMENDING APPROVING AN AMENDMENT TO THE RIGHT-OF-WAY LICENSE AGREEMENT WITH DELTA COMMUNICATIONS, L.L.C., DBA CLEARWAVE FIBER, FORMERLY DELTA COMMUNICATIONS, L.L.C., DBA CLEARWAVE COMMUNICATIONS

WHEREAS, the City of Columbia (“City”), Monroe and St. Clair Counties, Illinois is a duly created, organized and validly existing municipality of the State of Illinois under the 1970 Illinois Constitution and the laws of the State of Illinois, including particularly the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto; and

WHEREAS, Delta Communications, LLC, an Illinois Limited Liability Company, d/b/a Clearwave Communications and the City previously entered into a Right-of-Way License Agreement dated August 3, 2020 (authorized by Ordinance No. 3530) to grant a license to Delta Communications, LLC to install fiber optic cable and appurtenances within certain locations in the Public Rights-of-Way designated on Exhibit “A” thereto; and

WHEREAS, Delta Communications, LLC now known as Delta Communications, LLC DBA Clearwave Fiber (“Clearwave”), now desires to amend said Right-of-Way License Agreement to strike Exhibit A in its entirety and allow it the ability to install fiber optic cable and appurtenances within all Public Rights-of-Way owned or controlled by the City; and

WHEREAS, amendment of Paragraph 7 of the above-described Right-of-Way License Agreement is necessary to grant Clearwave a license to install fiber optic cable and appurtenances within all Public Rights-of-Way to provide telecommunication services to only commercial facilities; and

WHEREAS, the Corporate Authorities of the City now find and determine it is appropriate to enter into an Amendment of Paragraph 7 of the Right-of-Way License Agreement with Clearwave in the form attached hereto.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Columbia, as follows:

- Section 1.** The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.
- Section 2.** The amendment to Paragraph 7 the Right-of-Way License Agreement between the City of Columbia and Clearwave, attached hereto as Exhibit “A”, is hereby approved.

Section 3. The Corporate Authorities of the City of Columbia do hereby authorize and direct the Mayor or his designee to sign said Agreement on behalf of the City.

Section 4. This Ordinance shall be in force and effect from and after the date of its passage and approval, as provided by law

PASSED by the City Council and **APPROVED** by the Mayor of the City of Columbia, Illinois and deposited and filed in the office of the City Clerk on the 1st day of July, 2024, the vote being taken by ayes and noes and entered upon the legislative record as follows:

AYES: Aldermen Niemietz, Holtkamp, Riddle, Khoury, Lawlor, Nobbe, and Hitzemann.

NOES: None.

ABSTENTIONS: None.

ABSENT: Alderman Huch.

APPROVED:



BOB HILL, Mayor

ATTEST:



Derek Reichert

DEREK REICHERT, City Clerk

(SEAL)



EXHIBIT “A”

AMENDMENT TO PARAGRAPH 7 OF THE RIGHT-OF-WAY LICENSE AGREEMENT BETWEEN THE CITY OF COLUMBIA AND DELTA COMMUNICATIONS, L.L.C., DBA CLEARWAVE FIBER, FORMERLY DELTA COMMUNICATIONS, L.L.C., DBA CLEARWAVE COMMUNICATIONS

WHEREAS, Delta Communications, LLC, DBA Clearwave Fiber, an Illinois Limited Liability Company, formerly Delta Communications, LLC DBA Clearwave Communications, and the City of Columbia previously entered into a Right-of-Way License Agreement dated August 3, 2020 (authorized by Ordinance No. 3530) to grant a license to Delta Communications, LLC to install fiber optic cable and necessary appurtenances within certain sections of the City’s public right-of-way to provide telecommunication services “at retail”; and

WHEREAS, Delta Communications, LLC DBA Clearwave Fiber now desires to amend said Right-of-Way License Agreement to strike Exhibit A in its entirety and to allow it the ability to install fiber optic cable and appurtenances within all Public Ways owned or controlled by the City; and

WHEREAS, amendment of Paragraph 7 of the Right-of-Way License Agreement is necessary to grant Delta Communications, LLC DBA Clearwave Fiber a license to install fiber optic cable and appurtenances within all of City’s public right-of-way to provide telecommunication services to commercial facilities only.

THEREFORE, Delta Communications, LLC DBA Clearwave Fiber and the City of Columbia hereby amend the Right-of-Way License Agreement with Delta Communications, LLC DBA Clearwave Fiber to read as follows:

- A. The second WHEREAS clause of the Right-of-Way License Agreement shall be replaced with the following:

“WHEREAS, Licensee desires to utilize a portion of the City Public Ways for the installation of a fiber optic cable and appurtenances in certain sections of said City Public Ways. The portion of the City Public Ways to be used by Licensee is limited to any and all Right-of-Way under the ownership or control of the City (hereinafter the “License Premises”) and,”

- B. Paragraph 7 of the Right-of-Way License Agreement shall be replaced with the following:

“7. Limited Scope of License. The License granted to Licensee is limited in scope to the following use or uses: To construct, install, operate, inspect, maintain, repair, upgrade, replace and remove a fiber optic cable and any and all lines, conduits, access manholes, pull vaults, and other similar equipment and devices owned or used by Licensee (hereinafter the “Equipment”) in the License Premises for the purpose of providing telecommunications services to commercial facilities only within the corporate boundaries of the City of Columbia.”

- C. Exhibit A to the Right-of-Way License Agreement shall be stricken in its entirety.

IN WITNESS WHEREOF, each of the parties hereto has caused this Amendment to be executed by its duly authorized representatives as of the day and year written below.

CITY OF COLUMBIA, ILLINOIS

By: Bob Hill
Title: Mayor

Date: July 1, 2024

Attest:

Derek Reichert
By: Derek Reichert
Title: City Clerk

**DELTA COMMUNICATIONS, LLC
DBA CLEARWAVE FIBER**

DocuSigned by:

Charles Lawrence
CE6FCE519C39426

By: Charles Lawrence
Title: Regional President, MW

Date: 7/10/2024

Attest:

Ashley Phillips
A236EC8930EA4E9

By: Ashley Phillips
Title: Regional President, SE