

ORDINANCE NO. 2675

STATE OF ILLINOIS  
CITY OF COLUMBIA  
FILED FOR RECORD

AUG 18 2008

*Wiley J. Jaffee*  
City Clerk

**AN ORDINANCE TO AUTHORIZE AND APPROVE OF  
THE FORM OF AN UNDERGROUND COMMUNICATION  
SYSTEM EASEMENT FOR HARRISONVILLE  
TELEPHONE COMPANY FROM THE CITY OF  
COLUMBIA, ILLINOIS ON, OVER, UNDER, ALONG,  
THROUGH AND ACROSS THE CREEKSIDE PARK  
PROPERTY BELONGING TO THE CITY OF COLUMBIA,  
ILLINOIS AND LOCATED ADJACENT TO THE WILSON  
HILLS SUBDIVISION IN THE CITY**

WHEREAS, it is necessary and appropriate that the City of Columbia, Illinois (the "City") provide to Harrisonville Telephone Company (HTC), on, under, over, along, through and across property the city acquired for its Creekside Park project, a right-of-way easement for an underground communication system as well as perpetual temporary use of adjacent property of the City for easement access and working room; and,

WHEREAS, it is necessary and appropriate that the city council of the City shall enact this Ordinance for the purpose of authorizing said right-of-way easement and to approve of the form thereof.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, 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.** Attached hereto is the form of a proposed Underground Communication Easement from the City of Columbia, Illinois to HTC, which permanent communication easement is hereby authorized to be granted by the City Council of the City to HTC, and which is hereby approved as to form. The Mayor is hereby authorized and directed to execute the easement, for and on behalf of the City, in as many counterparts as the Mayor shall determine and the City Clerk is hereby authorized and directed to attest the same and affix thereto the corporate seal of the City.

**Section 3.** This Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

Alderman Stumpf moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Niemietz, and the roll call vote was as follows:

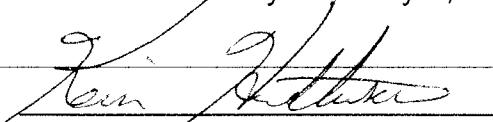
YEAS: Aldermen Ebersohl, Agne, Niemietz, Unnerstall, Row, Hejna, Oberkfell, Stumpf  
and Mayor Hutchinson.

NAYS: None.

ABSENT: None.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor, this 18<sup>th</sup> day of August, 2008.

  
KEVIN B. HUTCHINSON, Mayor

ATTEST:

  
WESLEY J. HOEFFKEN, City Clerk

(SEAL)

No. <u>1023</u>
County <u>Monroe</u>
T <u>1-S</u> R <u>10-W</u>
U.S. Survey <u>417</u>
Sec. <u>16</u>
City _____
Sub. _____
Block <u>      </u> Lot <u>      </u>

Received of HARRISONVILLE TELEPHONE COMPANY, (the "Company" or the "Telephone Company") One and no/100-----Dollars (\$ 1.00 ) in consideration of which the undersigned, City of Columbia, Illinois (the "Grantor" or the "City") hereby grants and conveys unto said Company, its respective successors, assigns, lessees, licensees, and agents a permanent right of way and easement to construct, operate, maintain, inspect, replace, and remove its underground communications system including all transmissions over copper lines, fiber optic, coaxial and any replacement lines for all bandwidths currently in use or as may be required in the future. Said systems consist of such cables, wires, conduits, manholes, and all appurtenances thereto, as may be required from time to time, upon, over, under and across the land of the undersigned described as follows ("Grantor's Land"):

SEE EXHIBIT "A" ATTACHED HERETO FOR LEGAL DESCRIPTION

Together with:

(1) The right of ingress and egress by reasonable routes across the adjoining property of the undersigned to and from said easement, and the right to temporarily use, at any time and from time to time, reasonable portions of Grantor's Land located in the vicinity of said easement during construction, installation, repair, reconstruction, inspection, maintenance or other activities related to the communications system that do not interfere with Grantor's existing use and/or improvements on adjacent property at the time of reference.

(2) The right to place surface markers and surface testing terminals on said strip, such markers and terminals to be placed only on fence lines, or along rights of way or boundary lines, or as the undersigned may permit beyond said strip.

(3) The right to clear and trim all trees, over-hanging branches, roots, brush and other obstructions on, under, over and across said strip as may be necessary during the construction, operation, and maintenance of said communications system.

The Telephone Company shall be responsible for damage caused to the undersigned Grantor's property by the Company, its agents and employees and shall repair and restore the premises and pay for any crop damage following construction and maintenance work. Further, the right of the undersigned to freely use and enjoy its interest in the premises is reserved to the City and its successors, and assigns insofar as the exercise thereof does not endanger or interfere with the construction, operation, and maintenance of said communications system, including, without limiting the generality of this reservation, the right to cultivate and grow crops and the right to establish roadways and municipal and public utility systems and services across said right of way without the written consent of the Company.

If the subject easement abuts a road and the road constitutes a public easement, then the easement granted hereunder shall include and encumber the portion of Grantor's Land which lies under and subject to such public easement and shall remain in full force and effect with respect to such portion of the road which may at any time be vacated, isencumbered or otherwise released from such public easement. If such road constitutes a fee parcel owned by the public, then the easement granted hereunder shall automatically expand to include, and encumber title to, such portion of the road that may at any time pass to the undersigned, its successors or assigns.

The terms and conditions set forth in this Easement #1023 are unique and exclusive to the property, the parties and the circumstances involved herein and shall not be incumbent on the Company to make and provide for in another or other easements required to be acquired by the Company in the future, which will involve different property and circumstances and may involve a different landowner.

The undersigned, for itself and its successors and assigns, warrants that it is the owners of the land here conveyed and has the right to make this conveyance and receive the payment therefor, release and waive all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois, and covenant that the Telephone Company, its successors and assigns may quietly enjoy the premises for the uses herein stated.

Signed and sealed this \_\_\_\_\_ day of August, 2008 \_\_\_\_.

GRANTOR(S)

The City of Columbia, Illinois  
( Name of Entity )

ATTEST: \_\_\_\_\_

By: \_\_\_\_\_

Name: Wesley J. Hoeffken

Name: Kevin B. Hutchinson

Title: City Clerk

Title: Mayor

STATE OF ILLINOIS)  
COUNTY OF MONROE) ss.

On this \_\_\_\_\_ day of August, 2008, before me appeared Kevin B. Hutchinson and Wesley J. Hoeffken by me duly sworn, and did say that they are the Mayor and City Clerk, respectively, of the City of Columbia a Municipal Corporation of the State of Illinois and that said instrument was signed in behalf of said City of Columbia, Illinois, and they acknowledged said instrument to be the free act and deed of said City of Columbia, Illinois.

Witness my hand official seal.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

HARRISONVILLE TELEPHONE COMPANY EXHIBIT "A" EASEMENT #1023

A 10 foot wide easement over, under, across and through a tract of land heretofore conveyed to the Grantor The City of Columbia, Illinois by Deed of Record in Book 241 at Pages 526-529 in the Recorder's Office of Monroe County, Illinois. Being all that part of Section 16 and Survey 417, Claim 228, Township 1 South, Range 10 West of the 3<sup>rd</sup> P.M., Monroe County, Illinois.

Said 10 foot wide easement being more particularly described as lying southerly of and abutting the southerly line of a subdivision known as Wilson Hills as found and recorded in Envelope 130A, 142B, 152B and 158A in the Recorder's Office of Monroe County, Illinois; Beginning on the westerly right-of-way line of a public road known as Rueck Road at the Southeast corner of Wilson Hills-Envelope 130A; thence in a northwesterly direction along said southerly line of Wilson Hills Subdivision 1,767 feet more or less to a Point of Ending on the North line of said Grantor's tract of land.

If the underground communications system installed by Harrisonville Telephone Company at any time interferes with use of the easement area by the City of Columbia, Harrisonville Telephone Company agrees to relocate the underground communications system at its sole expense.

If the relocation of Harrisonville Telephone Company's underground communications system requires the City of Columbia to provide a feasible and usable alternate location on City's property, Harrisonville Telephone Company shall pay City of Columbia for the easement at the same rate it is then simultaneously paying for easements to third parties for easements of a similar kind, and the underground communications system shall be relocated in accordance with the requirements of the city and at the expense of Harrisonville Telephone Company.

Parcel # 04-16-200-003