

City of Philadelphia



(Bill No. 010345)

AN ORDINANCE

Granting permission to Global Crossing Local Services, Inc., 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 duct facilities holding a legal grant pursuant to other City ordinances, and to lease telecommunications systems or portions of a telecommunications system 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 Global Crossing Local Services, Inc., a Michigan corporation authorized to conduct business in the Commonwealth of Pennsylvania and located at 180 South Clinton Avenue, Rochester, New York 14646 and its successors, assigns, and agents (collectively, “Global Crossing”) to:

(a) Lease fiber within any existing conduit within the public rights-of-way if the fiber and conduits are constructed within the public rights-of-way and the owner(s) hold a legal grant pursuant to another City of Philadelphia ordinance.

(b) Place Global Crossing owned fiber in existing conduits that are within a public right-of-way and as to which the owner(s) hold a legal grant pursuant to another City of Philadelphia ordinance.

(c) Construct, maintain, operate, replace, and remove two (2) four inch (4”) diameter conduits to provide access to the properties at the following five (5) locations:

- i. 423 South Seventeenth street
 - (1) conduit extending from an existing Verizon manhole at the northwest corner of Sixteenth street and Lombard street, then north along Sixteenth street to Pine street and into an existing Level 3 manhole near the northwest corner of Pine street and Sixteenth street.
 - (2) conduit extending from an existing Verizon manhole in the intersection of Seventeenth street and Lombard street, then west along Lombard street to Eighteenth street to an existing Level 3 manhole at the northeast corner of Eighteenth street and Lombard street.
- ii. 1309 Noble street

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- (1) conduit extending from the building on Hamilton street approximately three hundred and thirty six feet (336') west of the east curb line of Thirteenth street, east along Hamilton street to Thirteenth street to a proposed new manhole to be located near the southeast corner of Thirteenth street and Hamilton street and then along Thirteenth street to Callowhill street to an existing Level 3 manhole near the southeast corner of Thirteenth street and Callowhill street.
 - (2) conduit extending from an existing Level 3 manhole in Callowhill street located approximately one hundred and five feet (105') west of the west curb line of Broad street, east along Callowhill street for approximately one hundred and eight feet (108') and into the cartway of Broad street, north along Broad street for approximately five hundred and eight-two feet (582') to a proposed new manhole to be located approximately three feet (3') east of the west curb line of Broad street and twelve feet (12') south of the north curb line of Noble street; and then east along Noble street for approximately three hundred and twenty-five feet (325') where it enters the Noble street side of the building at a point approximately three hundred and eight feet (308') east of the west curb line of Broad street. The underground conduit in Broad street will be located approximately three feet (3') east of the west curb line of Broad street.
- iii. 440 North Broad street
- (1) conduit extending from the conduit along Hamilton street listed in Section 1(c)(ii) (1) westwardly across Broad street and into the building at a point approximately five feet (5') north of the south curb line of Hamilton street.
 - (2) conduit extending from the proposed new manhole at the intersection of Broad street and Noble street identified in Section 1 (c)(ii)(2) in a westerly direction and into the building 440 North Broad street.
- iv. 801 Arch street
- (1) conduit extending from an existing Level 3 manhole at the southeast corner of Ninth street and Cherry street in an easterly direction along Cherry street for approximately one hundred and fifty-four feet (154') west of the Level 3 manhole and then into the Cherry street side of the building.
 - (2) conduit extending from an existing Level 3 manhole at the southeast corner of Seventh street and Arch street in a northerly direction across Arch street to a point approximately three feet (3') south of the north curb line of Arch street and then west along Arch street for

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approximately five hundred and sixty-eight feet (568') and into the Arch street side of the building.

v. 833 Chestnut street

conduit extending from an existing Level 3 manhole on Market street that is located approximately sixty-seven feet (67') east of the east curb line of Eighth street in a westerly direction along Market street to Eighth street, continuing in a southerly direction along Eighth street to a proposed new manhole near the southeast intersection of Eighth street and Ranstead street, continuing in a westerly direction along Ranstead street to a proposed new manhole near the southeast corner of Ninth street and Ranstead street and then in a southerly direction along Ninth street for approximately one hundred and sixteen feet (116') where it turns east into the Ninth street side of the building.

(d) All new facilities to be constructed within the public rights-of-way listed shall be constructed in accordance with the requirements of, and under the supervision of, the Department of Streets. The facilities shall be constructed without interference with any existing surface or subsurface structures, and shall be used by Global Crossing 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 City governing the construction, maintenance, and operation of underground structures and the equipment, facilities and/or appurtenances placed therein.

(e) Global Crossing shall reserve one (1) four (4) inch diameter conduit solely for the use of the City for whatever purpose the City, in its sole discretion, may determine, and without conditions and at no cost or expense to the City for the construction, maintenance and/or use of the reserved conduit.

(f) The permission granted by this Ordinance is conditioned upon the approval of the Department of Streets as to the construction and installation of Global Crossing conduit at any location listed in this Section and is not a guaranty that the conduit 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 Global Crossing must by law obtain prior to construction of conduit, or occupancy of existing conduit or leasing existing fiber within the public right-of-way.

(g) 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.

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SECTION 2. In the event that any portion of said ductbank 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 Global Crossing with written notice at least one hundred eighty (180) days prior to the date any action would be required by Global Crossing to relocate said portion of the Telecommunications System. Within one hundred eighty (180) days of service of said notice upon Global Crossing, Global Crossing 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 Global Crossing is required to remove any portion of the Telecommunications System at the request of the City, the Department of Streets shall cooperate with Global Crossing 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 extensions are made, Global Crossing 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 Global Crossing 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 Global Crossing 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. Nothing in this Ordinance authorizes Global Crossing to provide to subscribers within the City “cable service” (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; or itself to furnish “telecommunications service” as defined at 47 U.S.C. § 153(46); or to install or operate, or permit any other entities to install or operate, any fiber optic or other cables or facilities or appurtenances thereto in the ductbank authorized by this Ordinance for the purpose of Global Crossing

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itself providing such telecommunications service; or to permit occupancy of the conduit by any entity that has not obtained permission to occupy a right-of-way in the City by ordinance of City Council and all permits required by the City for such occupancy.

SECTION 6. Before exercising any rights and privileges under this Ordinance, Global Crossing shall enter into an agreement (“Agreement”) with the appropriate City department or departments, in form satisfactory to the City Solicitor, to provide that Global Crossing 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 Global Crossing and authorized by this Ordinance;

(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 Global Crossing conduits;

(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;

(f) Remove any or all portions of the conduit listed in Section 1 from the public rights-of-way pursuant to applicable City specifications within sixty (60) days when the conduit or a portion of the 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;

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

(i) Not sell or transfer any individual conduit within the conduit or a portion of the capacity of the conduit that is within the public right-of-way to another entity without the express authorization of the City;

(j) Provide documentation in a form acceptable to the City of Philadelphia from the owner(s) of each of the five (5) properties listed in Section 1 that the owner(s) have granted Global Crossing permission to install Global Crossing facilities into the building;

(k) Provide a copy of each agreement for leasing fiber and or conduit space between Global Crossing and any other entity holding a grant pursuant to other City of Philadelphia ordinances for occupying any portion of the public right-of-way with fiber and or conduit.

SECTION 7. 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 8. The permission granted to Global Crossing 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 Global Crossing has not entered into the Agreement as required by Section 6 within one (1) year after this Ordinance becomes law.

SECTION 9. The permission granted to Global Crossing 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 Global Crossing 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 Global Crossing does not, without express written permission of the City of Philadelphia, extend the time for completing construction of the conduits authorized herein.

SECTION 10. 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.

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SECTION 11. 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