

St. Louis City Ordinance 64903

FLOOR SUBSTITUTE

BOARD BILL NO. [99] 296

INTRODUCED BY ALDERMAN TERRY KENNEDY

AN ORDINANCE recommended by the Board of Public Service authorizing and directing the Mayor and the Comptroller of the City of St. Louis (hereinafter called "City") to execute and deliver to the Southwestern Bell Telephone Company (hereinafter called "Southwestern Bell"), its successors and assigns, a Easement Agreement for a strip of land between Creve Coeur Mill Road and approximately 200 feet West of River Valley Drive, located on the North side of the City of St. Louis Water Division R O W (herein called "Water Division") owned by the City of St. Louis and located in St. Louis County.

WHEREAS, the City is the owner of a strip of real property located in the County of St. Louis in which Southwestern Bell is interested installing telecommunications cable in the ground with right of ingress and egress for construction and maintenance, and

WHEREAS, it is deemed to be in the public interest to permit the installations of such telecommunication lines across the property owned by the City, and

WHEREAS, the City is willing to grant an easement as described in EXHIBIT 1, to Southwestern Bell.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. The Mayor and the Comptroller, acting on behalf of the City of St. Louis, are hereby authorized and directed to execute and deliver to Southwestern Bell Telephone Company, its successors and assigns, the easement as described in Exhibit 1 of the Ordinance, located in St. Louis County.

SECTION TWO. This being an Ordinance relating to a public work and improvement and to provide for the preservation of the public health, it is hereby declared to be an emergency measure as defined by Article IV, Section 20 of the City Charter, and shall become effective immediately upon its passage and approval by the Mayor.

EXHIBIT 1

TELECOMMUNICATION EASEMENT AGREEMENT

THIS INDENTURE, made this _____ day of February, 2000 by and between the CITY OF ST. LOUIS, a Charter City under the laws of the State of Missouri, its successors, and assigns, hereinafter referred to as Grantor or City, whether one or more and whether an individual, individuals. or a corporation, and SOUTHWESTERN BELL TELEPHONE COMPANY, 12930 Olive Street Road, St. Louis, Missouri, a Missouri Corporation, its successors, and assigns, hereinafter referred to as Grantee or Southwestern Bell.

The City, under authority granted by Ordinance Number _____ approved on _____, 2000, for and in consideration of the sum of Seven Thousand Seven Hundred Fifty Dollars (\$7,750) paid to the City of St. Louis Water Division, the receipt and sufficiency of which is hereby acknowledged. Grantor does hereby grant, subject to termination rights, bargain, sell, convey, and confirm unto the Grantee the right and easement five feet (5') in width measured at ground level, the North boundary line being the North property line of the St. Louis Water Division Right of Way, extending from Creve Coeur Mill Road to River Valley Drive, a distance of approximately twenty nine hundred feet (2,900); on, along, over, under and across the lands of Grantor situated in St. Louis County, Missouri, more particularly described in Exhibit A attached hereto, and made a part of this document and subject to the following conditions:

1. This easement is hereby granted by the City, and accepted by Southwestern Bell Telephone Company its successors and assigns, upon the distinct and expressed understanding and condition that the City, its successors and assigns shall not in any manner whatsoever, either by law or in equity, be liable for any loss of life or injury that may be suffered or sustained by any person or persons, or for any loss or damage to any property, during the duration of this easement, and resulting from the use and occupancy of said Water Division property by the Southwestern Bell, its employees, officials, agents, licensees and invitees.
2. Southwestern Bell agrees to require any contractor, or contractors, engaged in the performance of any work within the aforementioned property to indemnify the City against all claims or demands arising from, or growing out of the injury to, or death of, any person, or persons, or damage to, or destruction of any property of any person or persons whomsoever, arising from, or growing out of any and all work performed by Southwestern Bell or their contractor or contractors. The City of St. Louis shall be named as an additional insured on all insurance policies within the aforementioned property.

3. The Grantee shall file a certificate of insurance with the Board of Public Service demonstrating Bodily Injury Insurance has been obtained for the duration of this agreement. The limits of this insurance shall not be less than \$100,000.00 for a single injury and \$1,000,000.00 for multiple injuries. Property damage shall not be less than \$5,000.00 for one accident and \$50,000.00 in the aggregate. The City of St. Louis Water Division shall be named as the insured. The minimum amounts of coverage required for Liability Insurance as set out herein shall not be construed to limit the liability of the Grantee.

4. If the City intends to construct or reconstruct any facilities within or upon the above described real property, the City shall give Southwestern Bell ample notice and an opportunity to review and comment on the detailed plans and specifications. During any construction and/or repair program of existing facilities, the City and Southwestern Bell shall determine what precautions are to be taken to avoid damage to the facilities of Southwestern Bell; the City, however, shall not be held liable for any damages that may occur.

5. Southwestern Bell shall have the right, subject to the plan approved by the Board of Public Service and the Water Division, to enter upon the property to maintain, rehabilitate and repair their facilities within the herein described real property. Southwestern Bell will take all necessary precautions to prevent damage to the water mains and their appurtenances, or to any survey markers which are in the vicinity of the herein described real property. Should Southwestern Bell disturb the protective coating on any of the water mains, or damage the water mains in any manner whatsoever, Southwestern Bell shall repair the mains and/or coating to the City of St. Louis Water Division specifications. Should any survey markers be damaged or destroyed, they shall be reset by the Water Division, at the expense of Southwestern Bell.

6. No use, other than to maintain, rehabilitate and repair the telecommunication cable facilities as set forth in the approved detailed plans and specifications, on file in the Office of the Board of Public Service, shall be made of this easement.

7. Southwestern Bell shall not commit any act which would cause the temporary interruption of water transmission by the City of St. Louis without permission from the Water Commissioner of said City. Furthermore, Southwestern Bell shall repair any and all damage done to the property of the City of St. Louis, including all water mains and appurtenances of the City, during any Southwestern Bell maintenance, rehabilitation or repair program.

8. Southwestern Bell shall not change the ground elevation or existing drainage patterns without making provisions for adequate catch basins and sewers. All excess material not used in fill during construction shall be removed from the site.

9. The surface of any ground disturbed along Water Division property shall be left smooth and neat and not require fine grading for mowing. After grading, disturbed areas shall be seeded, fertilized and strawed as required. It is possible that, due to the time of the year, winter conditions may prohibit adequate growth in the disturbed areas. Should this situation be true, Southwestern Bell shall reseed barren areas at the start of the spring growing season.

10. All fill material to be used on Water Division property shall only be clean earth or granular limestone. No rubble or debris shall be used.

11. The City reserves the right to use the aforementioned property for future open cut crossing by City facilities in the ground area below the surface area in question.

12. The City reserves the right to repair and maintain the present water mains and related facilities located in the herein described property. During any repair or maintenance work on the water mains or appurtenances, the City shall not be held liable for any damage to the facilities of Southwestern Bell.

13. Except in the case of an emergency, Southwestern Bell shall give the Water Division at least forty-eight (48) hours notice before any work on each event begins in the aforementioned property in order that the Water Division may have a representative present to insure that facilities are not damaged.

14. Any manholes or appurtenances affected by any maintenance, rehabilitation and/or repair event shall be set to proper grade by Southwestern Bell. The City reserves the right of approval of the method for raising frames and covers to grade. Future adjustments to manholes or appurtenances caused by a change in elevation of the surface area of the aforementioned property shall be done, and cost borne, by the persons or agencies causing such change.

15. All work performed in conjunction with this easement shall conform to these "General Conditions".

16. Due to the close proximity of St. Louis County Water Company's Twenty Foot (20') easement for their thirty six inch (36") water main (granted by the City through B P S Permit No. 37967, dated June 19,1952), and since this

easement overlaps the County Water Company's Easement, this easement will be granted ONLY upon written approval of St. Louis County Water Company.

17. In the event that the easement provided for herein shall be abandoned by Southwestern Bell, or if Southwestern Bell ceases to use and maintain the Subject Property for the purpose of this Easement, or Southwestern Bell shall fail to comply with any term or provision of this instrument, the easement shall cease to exist and all such rights shall revert back to the City of St. Louis. Southwestern Bell shall be responsible for removal of all Southwestern Bell facilities and restoration of the ground surfaces.

Together with the right, permission, privilege, and authority of Grantee to survey, stake, place, install, operate, maintain, inspect, patrol, at any time, and from time to time, in, on, upon, along, over, and across the herein described easement an underground 25 pair cable for the purpose of Southwestern Bell's telecommunicating along said line (providing plans are submitted to the Grantor and approved before the start of construction, ("as constructed" drawings to be supplied after construction is complete), to trim, cut, clear or remove, at any time, and from time to time, from said easement or the premises of the Grantor adjoining the same on either side trees and brush which, in the judgement of the Grantee, may endanger the safety of, or interference with, surveying, staking, construction, reconstruction, erection, placement, retention, operation, maintenance, inspecting, patrolling, addition to and relocation of Grantee's facilities; and the right of controlled ingress and egress to, from, and over the herein described easement and any of the adjoining lands of the Grantor, with permission, at any and all times for doing anything necessary or convenient in the rights herein granted; also the privilege of removing at Grantee's option at any time, any or all of Southwestern Bell's improvements erected in, on, upon, and over the herein described easement.

The Grantor warrants and covenants unto Southwestern Bell Telephone Company that, subject to liens and encumbrances of record at the date of this easement, it is the owner of the above described land and has full right and authority validly to grant this easement, and that Grantee may quietly enjoy the premises.

This easement conveyance shall run as long as it is being used for the specifically stated purpose for this easement except that the City shall retain the right of withdrawal and termination of said easement if an unforeseen emergency would arise that could be hazardous and a danger to the City of St. Louis water supply or if use of said easement would be deemed essential to the continuous operation of the City water system. This easement shall be binding upon the parties hereto, their heirs,

successors, executors, administrators and assigns.

TO HAVE AND TO HOLD the easement aforesaid, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in anyway appertaining unto said Grantee, its successors and assigns.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and seal as of the day and year first written above written.

THE CITY OF ST. LOUIS

BY: _____
CLARANCE HARMON, MAYOR

DARLENE GREENE, COMPTROLLER

SOUTHWESTERN BELL TELEPHONE COMPANY

BY: _____
SANDRA J. KOESTERER, DIRECTOR
ENGINEERING/CONSTRUCTION

Approved as to form:

CITY COUNSELOR

ATTEST:

REGISTER

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
02/11/00	02/11/00	PU		

2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
03/03/00		SUB	03/10/00	03/17/00
ORDINANCE	VETOED		VETO OVR	
64903				