

THE CITY OF PROVIDENCE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

RESOLUTION OF THE CITY COUNCIL

No. 247

Approved April 14, 2003

RESOLVED, That Resolution No. 102, Approved March 3, 2003,
Relative to Casey Family Services, be rescinded.

IN CITY COUNCIL
APR 3 2003
READ AND PASSED

PRES

CLERK

APPROVED

MAYOR

4/14/03

Councilman Hassett

RESOLUTION OF THE CITY COUNCIL

No. 102

Approved March 3, 2003

WHEREAS, Casey Family Services (hereinafter "Petitioner"), has sought:

(a) to alter the existing grade of the sidewalk located adjacent to 1268 Eddy Street in the City of Providence; and

(b) to install and maintain landscape plantings on sidewalk;

WHEREAS, said landscaping plantings will encroach upon the public walkway; and

WHEREAS, after study of Petitioner's request, the City, acting through its appropriate authorities, has determined that the proposed encroachments are not adverse to the public interest,

NOW, THEREFORE, BE IT RESOLVED That his Honor the Mayor may grant the Petitioner permission to encroach upon the public way for the purpose of constructing and maintaining a landscape plantings on or near the public way adjacent to a building located at 1268 Eddy Street, the dimensions of the encroachment shall not exceed the cross-hatched area on the accompanying map (Exhibit "A") said grant is specifically conditioned upon the following:

1. All construction with relation to the said landscaping is to be completed in accordance with plans and specifications submitted by the Petitioner to the city Department of Inspection & Standards as those plans may have been modified and/or approved by said department, the Department of Public Works, and the Council Committee on Public Works.

2. The Petitioner shall supply and retain in effect a certificate of insurance in an amount of not less than one hundred thousand dollars (\$100,000.00) protecting the City of Providence and its successors and assigns, its agents, servants, officers and employees as additional-named insureds against claims for the construction, maintenance and/or existence of said landscape construction and maintenance. Said insurance shall be from a company and in a form acceptable to the Department of Law.

3. Petitioner shall ascertain that construction results in no adverse impact on any existing utility company and shall ensure the continued integrity of those existing structures and, if necessary, shall grant to the appropriate public utility(ies) and/or

governmental agency(ies), by pertinent document, any easements, licenses, or the like, so as to maintain public services.

4. A certified copy of the within Resolution shall be recorded in the Office of Land Evidence of the City of Providence.

5. Any rights or obligations granted hereunder shall be deemed to run with the land and shall operate against any and all successors in interest and/or title .

6. Petitioner shall execute an indemnification and hold harmless agreement with the City of Providence. Said agreement shall be approved by the Department of Law of the City of Providence.

7. Petitioner shall supply the City of Providence with an insurance policy naming the City of Providence, its agents, officers, servants and employees as additional-named insureds in a sum not less than one hundred thousand dollars (\$100,000.00) which policy shall be approved by the Department of Law of the City of Providence.

8. Petitioner shall not lay, construct or affix to the realty any temporary or permanent structure other than that described earlier herein.

9. Petitioner recognizes the applicability of Sections 23-107, 23108 and 23-109 of the Code of Ordinances which read as follows:

23-107. Indemnity of city against claims arising out of electrical installations. No right of any person to maintain, use or operate any poles, wires, cables, conduits, ducts, pipes, manholes, handholes, or other appliances or appurtenances in any street or other traveled way in the city, shall be in preference or hindrance of public work in the city, and should any of the same in any way interfere with the construction, alteration or repair of any public work in, under, or over any such street or way, whether done by the city directly or by any contractor for the city, such person shall at his own expense protect, alter or move any of the same so interfering to some other location, or discontinue the use and operation thereof for the time being, as directed by the director of public works, without the city being liable for any damages suffered by such person thereby. The City shall notify such person not fewer than ninety (90) days prior to such public work, which will interfere with any of the same or the use or operation thereof. In case such person shall fail to comply with any such direction of said director, the city may protect, alter or move the same, and recover the cost thereof from such person.

23-108. Precedence of wires, apparatus of city signal service. The wires, poles, posts, structures and supports of the telephone, fire alarm and police signal service maintained by the city shall at all times take precedence and right-of-way as to all other wires, poles, posts, structures and supports maintained or erected in the city; and no lineman or other person, either in erecting wires, poles, posts, structures or supports in any way whatsoever shall interfere with, or disturb, disarrange or change any wires maintained by the city, or any appurtenance thereof; and in every instance of removal of any of said wires, poles, posts, structures or supports for the accommodation of any other corporation or party, or to place the same beyond danger from the electric current of any other corporation or party, the expense

incident to said removal shall be paid immediately by such other corporation or party.

23-109. Indemnity of city against claims arising out of electrical installation.

Every person erecting, maintaining or using electric wires or poles, fixture or structures, for the support or conducting of the same shall indemnify and save harmless the city, its officers, agents and servants, from and against all lawful claims and demands for injuries to persons or property occasioned by the existence of such poles, wires, fixtures or structures or the transmission of electric current by means thereof or by the digging up, opening or keeping open of any street, highway, traveled way, public place or part thereof, which shall be or has been opened for the purpose of installing, constructing or repairing any underground conduit, duct, structure, appliance or appurtenance by or for such person, or by any failure of such person to restore and keep in sound and safe condition for the required time any ground opened or dug up in the prosecution of any of its work in any street, way or place. The city, city council, or the officers, agents or servants of the city, exercising the rights, powers or permission, and subject to the restrictions, respectively given and reserved herein shall not be held liable by such person or corporation on account thereof, or by reason of any injury or damage caused thereby.

10. Petitioner shall repave all excavated roadways in accordance with relevant ordinances, industry standards and to the reasonable satisfaction of the Director of Public Works.

11. In addition to Paragraph 9 above, in the event that the City of Providence or its designee shall, for any public purpose, require the extinguishment of the easement granted herein and upon the ninety (90) days notice hereinbefore mentioned, Petitioner shall, at its own expense, remove said improvements to the easement area.

12. Said encroachment shall not exceed a period of twenty (20) years.

13. Such other terms and conditions as may be reflected in the record and minutes of the City Council Committee on Public Property and/or as may be deemed appropriate by the Mayor and the Department of Law.

IN CITY COUNCIL
FEB 20 2003
READ AND PASSED

Josephine DiLuzza
Acting PRES.
Clair E. Best
First Deputy CLERK

APPROVED

[Signature]

MAYOR

March 3, 2003