

RESOLUTION OF THE CITY COUNCIL

No. 252

Approved June 16, 2008

IT IS HEREBY RESOLVED, That His Honor, the Mayor, is authorized to grant non-exclusive sub-surface easement below Hope Street and its abutting sidewalk areas in the City of Providence to The Wheeler School (Wheeler). Said easement shall be granted specifically upon the following provisions:

1. The easement shall be utilized only for the installation and maintenance of duct banks and/or conduit for electrical cables, telephone cables and for communications cables connecting Plat 13, Lot 289, and Plat 11, Lot 7. The easement shall not exceed the area of two hundred eighty five (285) square feet, plus or minus, with dimensions indicated as a shaded area (A-B-C-D-E-F-A) on the accompanying plan entitled: "Providence, RI Department of Public Works - Engineering Office, Street Line Section Plan No. 064813" dated January 28, 2008.

2. The easement shall be deemed to run with the land and shall operate against any successors in title and the easement or a memorandum of same shall be recorded by Wheeler in the Office of Land Records for the City of Providence.

3. Wheeler shall remit to the City the sum of four thousand two hundred seventy-five (\$4,275.00) Dollars in legal tender of the United States of America.

4. Wheeler shall execute an indemnification and hold-harmless agreement with the City of Providence, to be approved by the City's Department of Law.

5. Wheeler shall supply the City of Providence with an insurance policy naming said 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 City's Department of Law.

6. Wheeler recognizes the applicability of Sections 23-107, 23-108 and 23-109 of the Code of Ordinances which read as follows:

23-107. Public work of city to take precedence over 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.

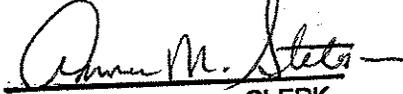
and Wheeler, for itself and its successors, agrees to comply with the same.

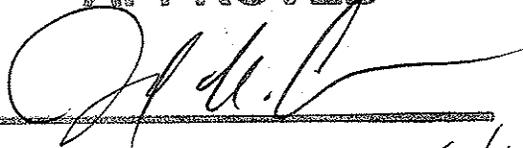
7. Wheeler shall repave Hope Street in accordance with relevant ordinances, industry standards and to the reasonable satisfaction of the Director of Public Works.

8. In addition to Paragraph 6 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, upon the ninety (90) days notice, Wheeler shall, at its own expense, and without claim against the City, its officers, servants or employees, for any damages whatsoever, remove said improvements to the easement area.

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

IN CITY COUNCIL
JUN 5 2008
READ AND PASSED

PRES.

CLERK

APPROVED

MAYOR
6/16/08