



MEMORANDUM

TO: Bruce K. Walden, Chief Administrative Officer
FROM: William R. Gray, P.E., Public Works Director
Barbara H. Stiehl, Assistant to the Public Works Director
DATE: June 18, 2003
RE: Wakeland Rentals Request to Install Cable at 1005 Stoughton Street

INTRODUCTION

Wakeland Rentals has requested permission from the City of Urbana to install a one-inch diameter conduit containing two cables crossing 1005 Stoughton Street, west of Gregory Street and east of Harvey Street, to serve two properties they own. Attached is Exhibit A that shows the location for the conduit. The purpose of the cable is to provide high-speed Internet access to these properties.

In order for Wakeland Rentals to install the conduit in City right-of-way, a license agreement and permission to use the private property in front of 1004 and 1006 West Stoughton Street are necessary. Attached please find a draft agreement for use of right-of-way, which outlines the conditions for permitting Wakeland Rentals to occupy the public right-of-way with a conduit and an agreement granting permission for Wakeland Rentals to use the private property in front of 1004 and 1006 West Stoughton Street.

FISCAL IMPACTS

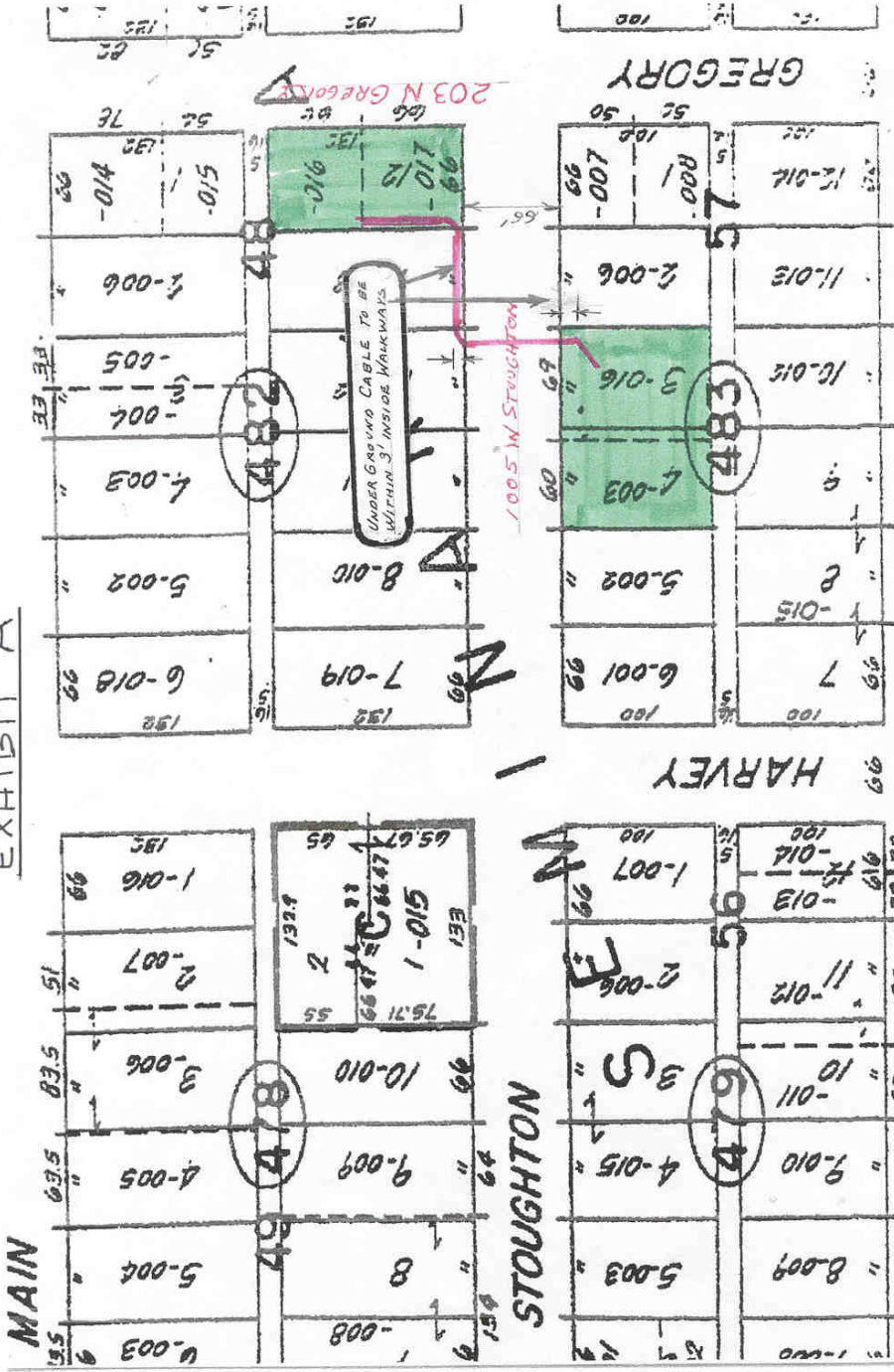
There would be no financial impacts to the City since the installation and maintenance for the conduit is solely at Wakeland Rentals' expense. Additionally, Wakeland Rentals is indemnifying the City against any losses, claims, etc., that may occur as a result of the conduit installation at this location.

RECOMMENDATION

It is recommended that "AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR USE OF RIGHT-OF-WAY" be approved.

Attachments: Exhibit A
Permission for Use of Private Property
Agreement
Ordinance

EXHIBIT A



21-18D
 WAKELAND UNDERGROUND
 CONDUIT INSTALLATION
 WAKELAND PROPERTY

CUNNINGHAM TWP.



WAKELAND RENTALS
2213 Combes
Urbana, Illinois 61801
217-367-8606
217-367-3213 Fax

June 4, 2003

To: City of Urbana

From: Howard Wakeland

Re: Permission from Ed Shlens to cross his property to install an underground conduit.

Whereas Wakeland Rentals desires to construct an underground conduit approximately 1 1/2 inches in diameter and to be installed in an underground manner without disturbing the ground surface, and

Whereas the conduit is to be placed within a space no wider than 3 feet from the inside of the walkway and parallel to the walkway in front of 1004-1006 W. Stoughton, Urbana owned by Ed Shlens, and

Whereas, Wakeland Rentals will be responsible for any damage during construction and thereafter caused by this installation, and

Whereas, Wakeland Rentals will be responsible for removal of the conduit should it cause any concern for the operation, maintenance or changes made to Shlens property,

Ed Shlens grants permission to Wakeland Rentals to install an underground conduit under these conditions.

Permission Granted on this date 6/1 /2003

Ed Shlens E Shlens

AGREEMENT FOR USE OF RIGHT-OF-WAY

[1005 West Stoughton Street]

THIS AGREEMENT, made and entered into this _____ day of _____, 2003, by and between the CITY OF URBANA, a municipal corporation of the State of Illinois (hereinafter "City"), and Wakeland Rentals (hereinafter "Company"),

WITNESSETH:

FOR AND IN CONSIDERATION of the mutual covenants and agreements herein contained, the City and the Company do mutually covenant and agree as follows:

A. Stoughton Street is a 66-foot dedicated right-of-way between the west right-of-way of Gregory Street and the east right-of-way of Harvey Street.

B. The Company is herein granted by the City a limited right to bury a one-inch conduit containing two cables under such right-of-way. This limited right is wholly dependent upon the Company, its successors and assigns, fully and faithfully performing and complying with all the terms, conditions, and covenants contained within this Agreement. The Company expressly acknowledges and agrees that such limited right is immediately revocable at the option of the City in the event that the Company, its successor or assign, fails to perform or comply with any term, condition or covenant set forth within this Agreement. Further, it is expressly understood that regardless of the existence or not of any breach, the use by the Company of the hereinabove described right-of-way shall at all times be subordinate to the City's use of said right-of-way.

C. The purpose of the herein permitted right to construct upon such right-of-way shall be limited solely to the installation and maintenance of a one-inch conduit, which is shown on Exhibit A, and use thereof, and for incidental uses directly related thereto. Upon cessation of such use as determined by the Director of Public Works of the City of Urbana (hereinafter "Director"), this Agreement shall immediately lapse and terminate. Any additional use other than that specifically named, without the further express written consent of the City, shall be construed as a violation of this Agreement.

D. When so instructed by the Director, the Company will cause the conduit to be removed, as nearly as possible in conformance with the Director's request, within thirty (30) days after receipt of written notice from the Director. The Company is solely and entirely responsible for any and all costs directly or indirectly related to such removal and restoration in kind of the right-of-way.

E. In the event of an emergency, defined as imminent peril to person or property, or when the Company has inadequately complied with an order of the Director pursuant to Paragraph (D) above, or at any other time the Director or other responsible City official in good faith deems the procedures of Paragraph (D) impracticable under the circumstances present, the Company consents and agrees that the City or its duly authorized agent may remove the conduit, or any portion thereof, and charge all costs and expenses incurred in such removal, disposal, and

AGREEMENT FOR USE OF RIGHT-OF-WAY (cont'd.)
Between the *City of Urbana* and *Wakeland Rentals*
[1005 West Stoughton Street]

restoration to the Company. Should the Company fail in any way to make timely payment to the City for such costs and expenses, the Company agrees to pay, in addition to any amount so owed, reasonable attorneys' fees and court costs incurred in the collection of such amount.

F. The Company agrees to defend the City from and against any claims, suits, or actions for death or injury to persons or damage to property or breach of the contract brought against the City arising from any alleged claims, acts, or omissions in connection with this Agreement, including the installation of the conduit, whether or not suit is filed unless such claim, suit, or cause of action was based solely upon the negligence of the City, its employees, agents, or contractors. Additionally, the Company shall indemnify the City for any sums the City becomes obligated to pay as damages arising out of such circumstances except to the extent such damages are due to the negligence of the City, its employees, agents, or contractors

G. The Company acknowledges that it shall be fully responsible and bear all costs associated with any and all maintenance or repair of the conduit and cables.

H. The Company shall provide to the City, upon completion of the conduit installation, as-built plans.

I. This Agreement shall be expressly binding upon both parties, their successors and assigns. This Agreement shall be valid only upon being duly recorded by the Recorder of Deeds for Champaign County, Illinois.

* * *

AGREEMENT FOR USE OF RIGHT-OF-WAY (cont'd.)
Between the *City of Urbana* and *Wakeland Rentals*
[1005 West Stoughton Street]

In witness to their Agreement, the Parties have executed this document this _____ day of _____, 2003.

CITY OF URBANA

WAKELAND RENTAL PROPERTIES

By: _____
Mayor

By: _____
President

ATTEST:

ATTEST:

By: _____
City Clerk

By: _____
Secretary

APPROVED:

APPROVED (as to form):

By: _____
Legal Counsel

By: _____
Legal Counsel

* * *

Prepared by and please return recorded copy to:

Steve Holz, City Attorney
City of Urbana, Illinois
400 South Vine Street
Urbana, Illinois 61801

ORDINANCE NO. 2003-06-060

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE
AN AGREEMENT FOR USE OF RIGHT-OF-WAY
(1005 West Stoughton Street)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
URBANA, ILLINOIS, as follows:

Section 1. That the Agreement for Use of Right-of-Way (Stoughton
Street between Harvey Street and Gregory Street) between the City of Urbana
and Wakeland Rentals, in the form of a copy of said Agreement attached hereto
and hereby incorporated by reference, be and the same is hereby authorized
and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the
same is hereby authorized to execute and deliver and the City Clerk of the
City of Urbana, Illinois, be and the same is hereby authorized to attest to
said execution of said Agreement as so authorized and approved for and on
behalf of the City of Urbana, Illinois.

PASSED by the City Council this _____ day of _____,
2003

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____,
2003

Tod Satterthwaite, Mayor