



Meeting Date: 07 / 24 / 2007

ACTION	TYPE OF ITEM
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Info/Consent
<input type="checkbox"/> Ord. No(s). _____	<input type="checkbox"/> Report
<input type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Public Hearing (Info/consent)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Other _____

Prepared By: Paul J. Wendt

Agenda Item No. I-7

Reviewed By: City Manager

City Attorney *AA*

Finance *SW*

Other (Specify)

DATE: July 6, 2007

TO: City Council

FROM: Paul J. Wendt, Supervising Civil Engineer
Development Services

SUBJECT: License Agreement with Oxnard Union High School District to Install a Data Wiring Conduit Under K Street Just North of Third Street

RECOMMENDATION

That City Council approve and authorize the Mayor to sign a "License to Encroach on City Property" with the Oxnard Union High School District for the installation of a conduit and data wiring under K Street just north of Third Street.

DISCUSSION

The Oxnard Union High School District ("District") (A-6902) has requested a license agreement to allow it to construct and maintain conduit and data wiring within the K Street public right-of-way. Installation of this infrastructure would allow the District to provide a hard wire connection between the District's IT building on the corner of Third and K Streets with its facilities located at 220 S. K Street and its Transportation Department on Second Street.

The license agreement allows the District to install a permanent conduit upon review of construction plans and issuance of an encroachment permit. Because the conduit will not be marked when Utility Underground Service Alert is called to mark known underground utilities, Section 5 of the agreement states that the City is not liable for any damage to the conduit or protection of the conduit.

FINANCIAL IMPACT

There is no anticipated financial impact.

(PJW)

Attachment #1 - License to Encroach on City Property

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RECORDING REQUESTED BY:

City of Oxnard

Request recording without fee. Record for benefit of the City of Oxnard pursuant to Section 6103 of Government Code

WHEN RECORDED MAIL TO:

Oxnard City Clerk's Office
305 West Third Street
Oxnard, California 93030

Agreement No. A-6902

LICENSE TO ENCROACH ON CITY PROPERTY

This License to Encroach on City Property ("this License") is executed in the County of Ventura, State of California, this ____ day of _____, 2007, by and between the City of Oxnard, a municipal corporation ("City"), and the Oxnard Union High School District ("Licensee").

WHEREAS, City owns or has an easement for right-of-way purposes over property known as K Street in Oxnard, California shown on the map that is Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, the location is described in Exhibit A, attached hereto with the designation "new data wiring" and incorporated herein by reference; and

WHEREAS, Licensee wishes to install data wiring ("wiring") under K Street at the location shown on Exhibit A.

WHEREAS, Licensee wishes to install 90- feet of wiring in approximately 2" diameter conduit at a level 2 feet below the City street to connect buildings owed by Licensee on either side of K Street.

WHEREAS, the Licensee's installation will provide a public benefit by enabling Licensee to better provide services to the public.

NOW, THEREFORE, City and Licensee hereby agree as follows:

1. License Granted

Subject to the conditions contained in this License, City grants to Licensee an exclusive, revocable license to install the wiring in the location under K Street shown in Exhibit A.

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2. Possessory Interest

This License may create a possessory interest that is subject to property taxation. Licensee agrees to pay any possessory interest property tax imposed in the encroachments for which this License is granted.

3. Installation of Improvements

a. Before installation of the wiring, Licensee shall obtain a City encroachment permit, allowing the wiring.

b. Before installation of wiring, Licensee shall obtain any other applicable permits to install the wiring.

c. Licensee shall install the wiring in accordance with this License and any conditions placed on the encroachment permit and other permits, including, but not limited to, any requirement that Licensee's contractor for the installation pay prevailing wages in connection with the work of installation.

4. Compensation to City

[Intentionally omitted].

5. Maintenance

a. Licensee shall be responsible for maintaining the wiring in good repair. City shall have no liability or responsibility for maintaining the wiring, protecting the wiring, or for any damage to a destruction of the wiring by the acts of City or any other person or entity. Licensee shall relocate the wiring at Licensee's expense upon 60 days written notice from City in the event that City determines that the wiring will interfere with a City project, City use, or other project which City determines is of public benefit.

6. Revocation of License; Removal of Improvements

a. The City Manager may revoke this License on 15 days notice for failure to perform any obligation or make any payment required by this License. In addition, the City Manager, with or without cause, may at any time, revoke this License on 60 days' prior written notice to Licensee.

b. On or before the effective date of revocation, and at Licensee's own expense, Licensee shall remove the wiring from beneath the street, make any repairs required by such removal, and return the street to as good condition and appearance as existed before the wiring was installed. If Licensee does not make such timely removals and repairs, City may do so and Licensee must reimburse City for the cost thereof within ten (10) days of demand.

7. Indemnity

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Licensee agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability, claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and omissions related to this License performed by Licensee or its agents, employees, consultants and other persons acting on Licensee's behalf, or from the condition or existence of the grease interceptor. This agreement to indemnify, hold harmless and defend shall apply whether such acts, omissions, condition or existence are the product of active negligence, passive negligence, willfulness or acts for which Licensee or its agents, employees, consultants and other persons acting on Licensee's behalf would be held strictly liable.

8. Insurance

a. While this License is in effect, Licensee shall obtain and maintain the insurance coverages as specified in Exhibit INS-K, attached hereto and incorporated herein by this reference, issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Licensee obtain and maintain such insurance coverages.

b. Licensee shall, prior to performance of any services, file with Risk Manger evidence of insurance coverage as specified in Exhibit INS-K. Evidence of insurance coverage shall be forwarded to the Risk Manger, addressed as specified in Exhibit INS-K.

c. Maintenance or proper insurance coverages by Licensee is a material element of this License. Licensee's failure to maintain or renew insurance coverages or to provide evidence or renewal may be considered as a material breach of this License.

9. Security

Intentionally omitted.

10. Governing Law

The construction and interpretation of this License and the rights and duties of City and Licensee hereunder shall be governed by the laws of the State of California.

11. Compliance with Laws

Licensee agrees to comply with all City, State, and Federal laws, rules and regulations, now or hereafter in force, pertaining to Licensee's installation of the improvements.

12. Notices

a. Any notices to Licensee may be delivered personally or by mail addressed to Oxnard Union High School District, 309 South K Street, Oxnard, California 93030, Attention: Director of Facilities.

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b. Any notices to City may be delivered personally or by mail addressed to City Manager, 300 West Third Street, Oxnard, CA 93030, with a copy to the City Attorney at the same address.

13. Assignment

Licensee may not delegate its rights or duties under this License without the written consent of the City Manager, whose consent may be withheld for any reason.

14. Successors and Assigns

This License shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of City and Licensee.

15. Amendment

The terms and conditions of this License may be amended by a written document signed by the City Manger and Licensee.

16. [Intentionally Omitted].

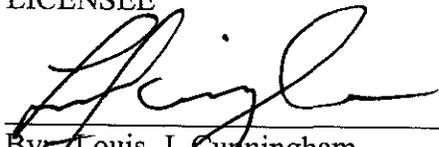
17. Entire Agreement

This License constitutes the entire agreement of the parties regarding the subject matter described herein and supersedes all prior communications, licenses, and promises both oral and written.

CITY OF OXNARD

LICENSEE

Dr. Thomas E. Holden, Mayor

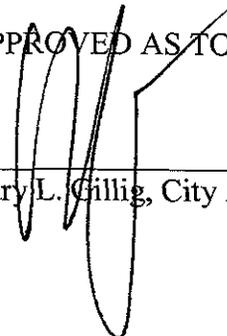


By: Louis J. Cunningham
Its: Director of Facilities

ATTEST:

Daniel Martinez, City Clerk

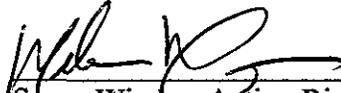
APPROVED AS TO FORM:



Gary L. Gillig, City Attorney

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APPROVED AS TO INSURANCE:



Susan Winder, Acting Risk Manager

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of VENTURA

On JUNE 25, 2007 before me, GRACE D. TUAZON, NOTARY PUBLIC
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared LOUIS J. CUNNINGHAM
Name(s) of Signer(s)

personally known to me

(or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/hers/their authorized capacity(ies), and that by his/hers/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.
Grace D. Tuazon
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: LICENSE TO ENCRANCH ON CITY PROPERTY

Document Date: NONE Number of Pages: 8

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

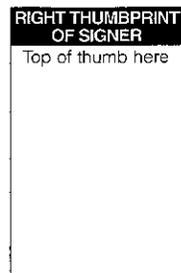
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

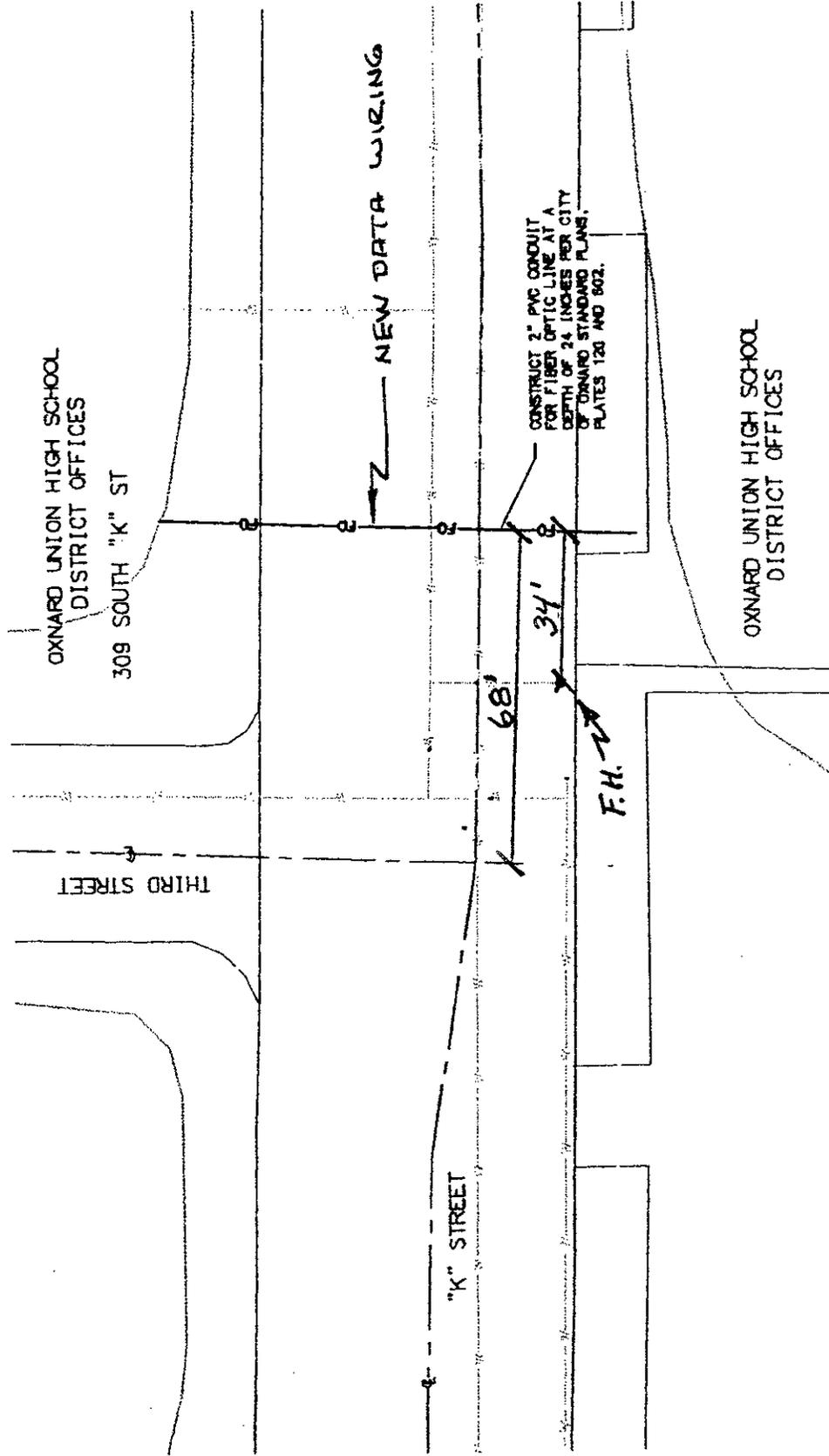
Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Exhibit "A"



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