

07/23/2003

78-O-03

**AN ORDINANCE**

**Authorizing the City Manager to  
Execute an Easement Agreement with  
Northwestern University for Subsurface  
Installation of a Telecommunications System**

**WHEREAS**, the City of Evanston is an Illinois municipal corporation having home rule powers under Article VII of the 1970 Illinois Constitution; and

**WHEREAS**, among the powers granted to a home rule unit by Article VII, Section VI of the 1970 Illinois Constitution is that to exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, a cooperative effort to create a telecommunications system with Northwestern University ("Northwestern"), institution of higher learning located at 633 Clark Street, Evanston, Illinois 60208 pertains to the government and affairs of the City in that it will expedite telecommunications between City Departments; and

**WHEREAS**, Article VII, Section X of the 1970 Illinois Constitution allows the City, as a unit of local government, to contract with corporations to share services and combine functions; and

**WHEREAS**, the City and Northwestern had previously entered into an Easement for Telecommunications on July 5, 1984, which Easement with its amendments on December 22, 1986, July 8, 1994, and March 9, 1999, provided for installation and maintenance of a telecommunications system in the City's right-of-way (the "1984-2003 Easement"); and

**WHEREAS**, the telecommunications system installed pursuant to the 1984-2003 Easement remains *in situ* and in operation, serving Northwestern; and

**WHEREAS**, the continuation of that service is in the best interests of the citizens of Evanston; and

**WHEREAS**, the 1984-2003 Easement Properties are legally described in Exhibit A and pictorially represented in the route map in Exhibit B, both of which Exhibits are attached to the Easement Agreement; and

**WHEREAS**, the City is desirous of connecting certain of its City buildings with a single mode fiber optic cable system (fiber optic cable system); and

**WHEREAS**, this fiber optic cable system will provide the City with a high performance system capable of the gigabit speed of one billion bits per second; and

**WHEREAS**, installation of the fiber optic system requires boring for underground conduits with no above-ground lines except for fiber entry points into the buildings; and

**WHEREAS**, Northwestern is desirous of establishing additional fiber optic capabilities to serve its Evanston facilities; and

**WHEREAS**, Northwestern is desirous of entering into an agreement with the City for shared use of the underground conduits and installation therein of this additional fiber optic system; and

**WHEREAS**, Northwestern has agreed to undertake at its sole cost and be solely responsible for installation of the City's fiber optic cable system, to pay the City an annual easement fee, and to give other consideration, in exchange for the right to install and maintain its own fiber optic cable system; and

**WHEREAS**, said Article VII, Section X of the 1970 Illinois Constitution allows the City to contract with Northwestern to share services and combine functions by continuing the 1984-2003 telecommunications system and by providing for a new shared system; and

**WHEREAS**, the City and Northwestern have determined that joint action is the most effective way to accomplish the above-described purposes; and

**WHEREAS**, the City and Northwestern have authorized the execution of this Agreement as an exercise of the City's Intergovernmental Authority and Northwestern's corporate authority; and

**WHEREAS**, execution of said Agreement is in the best interests of the citizens of Evanston,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** That the City Manager is hereby authorized and directed to sign, and the City Clerk is hereby authorized and directed to attest on behalf of the City of Evanston, an Easement Agreement, attached hereto as Exhibit 1 and made a part hereof, between the City, as Grantor, and Northwestern University, as Grantee, providing for installation and maintenance of a telecommunications in the City's right-of-way.

**SECTION 2:** That the City Manager is hereby authorized and directed to negotiate any additional terms of the Agreement as may be determined to be in the best interests of the City.

**SECTION 3:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4:** That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: July 28, 2003

Adopted: August 18, 2003

Approved:

August 26, 2003  
Frederic H. Norton  
Mayor

ATTEST:

Mary P. Morris  
City Clerk

Approved as to form: [Signature]  
Corporation Counsel