

ORDINANCE NO. 94-1026

AN ORDINANCE GRANTING TO U.S. WEST COMMUNICATIONS, INC., HEREINAFTER SOMETIMES REFERRED TO AS "GRANTEE", ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND PRIVILEGE TO DO A GENERAL COMMUNICATION BUSINESS AND TO PLACE, ERECT, LAY, MAINTAIN AND OPERATE IN, UPON, OVER AND UNDER THE STREETS, ALLEYS, AVENUES, THOROUGHFARES, AND PUBLIC HIGHWAYS, PLACES AND GROUNDS WITHIN THE CITY OF OREGON CITY, POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE AND OTHER COMMUNICATION PURPOSES; AND REPEALING ORDINANCES NO. 1793 AND NO. 90-1021.

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. There is hereby granted by the City of Oregon City to U.S. West Communications, Inc., its successors and assigns, the right and privilege to do a general communication business within said City of Oregon City and to place, erect, lay, maintain and operate in, upon, over and under the streets, alleys, avenues, thoroughfares, and public highways, places and grounds within the said City, poles, wires and other appliances and conductors for all telephone and other communications purposes. Such wires and other appliances and conductors may be strung upon poles or other fixtures above ground, or at the option of the Grantee, its successors and assigns, may be laid underground, and such other apparatus may be used as may be necessary or proper to operate and maintain the same.

Section 2. It shall be lawful for said Grantee, its successors and assigns, to make all needful excavations in any of the streets, alleys, avenues, thoroughfares and public highway, places and grounds in said City for the purpose of placing, erecting, laying and maintaining poles or other supports or conduits for such wires and appliances and auxiliary apparatus or repairing, renewing or replacing the same. The work shall be done in compliance with the necessary rules, regulations, ordinances or orders, which may during the continuance of this franchise be adopted from time to time by the City of Oregon City.

Section 3. Whenever Grantee, its successors and assigns, shall disturb any of the streets for the purpose aforesaid, it or they shall restore the same to good order and condition as soon as practicable without unnecessary delay, and failing to do so the City of Oregon City shall have the right to fix a reasonable time within which such repairs and restoration of streets shall be completed, and upon failure of such repairs being made by the Grantee, its successors and assigns, the said City shall cause the repairs to be made at the expense of the Grantee, its successors and assigns.

Section 4. Nothing in this Ordinance shall be construed in any way to prevent the property authorities of the City of Oregon City from sewerage, grading, planking, rocking, paving, repairing, altering, or improving any of the streets, alleys, avenues, thoroughfares and public highways, places and grounds within the City of Oregon City in or upon which the poles, wires or conductors of the Grantee shall be placed, but all such work or improvements shall be done if possible so as not to obstruct or prevent the free use of said poles, wires, conductors, conduits, pipes,

or other apparatus. The City shall not require Grantee to remove or relocate its facilities or vacate any street, alley or other public way incidental to any public housing or renewal project under ORS Chapter 456 or 457 without reserving Grantee's right therein or without requiring Grantee to be compensated for the costs thereof.

Section 5. Whenever it becomes necessary to temporarily rearrange, remove, lower or raise the aerial cables or wires or other apparatus of the Grantee to permit the passage of any building, machinery or other object moved over the roads, streets, alleys, avenues, thoroughfares and public highways within the City, the Grantee will perform such a rearrangement within a reasonable period after written notice from the owner or contractor-mover desiring to move said building, machinery or other objects. Said notice shall bear the approval of the City, shall detail the route of movement of the building, machinery, or other object, shall provide that the costs incurred by the Grantee in making such a rearrangement of its aerial facilities will be borne by the contractor-mover and shall further provide that the contractor-mover will indemnify and save the Company harmless of and from any and all damages of claims whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the facilities of the Grantee, and if required by the Grantee, shall be accompanied by a cash deposit or a good and sufficient bond to pay any and all such costs as estimated by the Grantee.

Section 6. In consideration of the rights, privileges, and franchise hereby granted, said Grantee, US WEST Communications, Inc., its successors and assigns, shall pay to the City of Oregon City from and after the date of the acceptance of this franchise, and until its expiration, annually, seven percent (7%) per annum of its gross revenues derived from exchange access services as defined in ORS 401.701 within the corporate limits of the City of Oregon City less net uncollectibles. Payment shall be made on or before the fifteenth day of March of each and every year for the calendar year preceding, with the exception that in the year 1995, payment shall be made only for the period commencing on the date this ordinance becomes effective and ending December 31, 1994. Such payment made by the Grantee will be accepted by the City of Oregon City from the Grantee, also in payment of any license, privilege or occupation tax or fee for revenue or regulation, or any permit or inspection fees or similar charges for street openings, installations, construction or for any other purpose now or hereafter to be imposed by the City of Oregon City upon the Grantee during the term of this franchise.

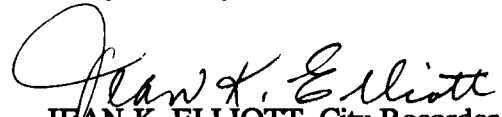
Section 7. Said Grantee hereby agrees and covenants to indemnify and save harmless, the City of Oregon City and its officers from any damages, costs and expenses arising from any injury to persons or property by reason of any negligent act or omission of the Grantee, its agents or employees, in exercising the rights and privileges herein granted.

Section 8. The rights, privileges and franchise herein granted shall continue and be in force for the period of twenty (20) years from and after the date this Ordinance becomes effective, except that it is understood and agreed that either party may terminate this Agreement after 180 days notice in writing. This Ordinance shall be subject to any and all State or Federal legislative enactments.

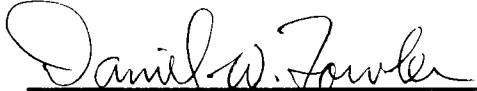
Section 9. This Ordinance shall, if accepted by Grantee, take effect and be in force thirty (30) days from and after its passage and approval. Said Grantee shall, within thirty (30) days of the passage and approval of this Ordinance, file with the City Recorder of the City of Oregon City its written acceptance of all the terms and conditions of this Ordinance.

Section 10. Ordinance No. 1793 and Ordinance No. 90-1021 are hereby repealed.

Read first time at a regular meeting of the City Commission held on the 19th day of October, 1994, and the foregoing ordinance was finally enacted by the City Commission this 19th day of October, 1994.


JEAN K. ELLIOTT, City Recorder

ATTESTED this 19th day of October, 1994.



DANIEL W. FOWLER, Mayor

ORDINANCE NO. 94-1026

Effective Date: November 18, 1994



CITY OF OREGON CITY

INCORPORATED 1844

COMMISSION REPORT

TO THE HONORABLE MAYOR AND COMMISSIONERS

FOR AGENDA

DATED
October 19, 1994

1 of 1

Page

Subject: Proposed Ordinance No. 94-1026, An Ordinance Granting to US West Communications, Inc., the Right and Privilege to do A General Communication Business Within the City of Oregon City

Report No. 94-194

At its December 5, 1973 meeting, the City Commission adopted Ordinance No. 1793 which granted to Pacific Northwest Bell Telephone Company (now known as US West Communications, Inc.) the right and privilege to do a general communication business within the City of Oregon City with that right and privilege expiring in December, 1993.

At its May 2, 1990 meeting, the City Commission adopted Ordinance No. 90-1021 which amended Section 6 of Ordinance No. 1793. That amendment was in response to HB 3000 which authorized a uniform reduced privilege tax base, but allowed cities to levy an increased privilege tax rate of 7 percent on the reduced base.

Recently, negotiations were concluded with US West Communications, Inc. representatives for a renewal of the current right and privilege to do a general communication business with the City of Oregon City.

On the October 19, 1994 agenda is proposed Ordinance No. 94-1026 (copy attached) which renews the rights, privileges and franchise for a period of twenty (20) years from and after the date this ordinance becomes effective as defined in Section 8 of the ordinance. Attached is a letter dated August 12, 1994 from US West Communications which advises they will honor all terms and conditions of the prior ordinances until this new franchise ordinance is adopted.

Notice of proposed Ordinance No. 94-1026 has been posted at City Hall, Municipal Elevator and Pioneer Community Center by direction of the City Recorder. It is recommended that first reading be approved, second reading be called and approved for final enactment for the ordinance to become effective November 18, 1994.

CHARLES LEESON
City Manager

jke
Attach.
cc:

Dennis Tooley, US West Communications, Inc.

N O T I C E

NOTICE IS HEREBY GIVEN that proposed ORDINANCE NO. 94-1026 of the City of Oregon City, Clackamas County, Oregon, three copies of which are available for public inspection at the office of the City Recorder, 320 Warner Milne Road, Oregon City, Oregon.

Said Ordinance will be considered by the City Commission at its meeting on the 19th day of October, 1994, at the hour of 8:00 o'clock p.m. The title of said Ordinance is as follows:

AN ORDINANCE GRANTING TO US WEST COMMUNICATIONS, INC., THE RIGHT, PRIVILEGE AND FRANCHISE TO DO A GENERAL COMMUNICATION BUSINESS WITHIN THE CITY OF OREGON CITY

POSTED this 12th, day of October, 1994, by direction of the City Recorder. Places of posting are as follows:

1. City Hall, 320 Warner Milne Road, Oregon City, Oregon.
2. Municipal Elevator, 300 Seventh Street, Oregon City, Oregon.
3. Pioneer Community Center, 615 5th Street, Oregon City, Oregon.

JEAN K. ELLIOTT, City Recorder

DO NOT REMOVE PRIOR TO OCTOBER 20, 1994