



**Qwest**  
1801 California Street, Suite 5100  
Denver, Colorado 80202  
Phone 303 672-2957  
Facsimile 303 296-2616

**Roy A. Adkins** 00 AUG -7 AM 11:44  
Corporate Counsel  
CITY OF WEST LINN

August 1, 2000

City of West Linn  
P. O. Box 29  
West Linn, OR 97068

Re: Qwest/U S WEST Merger

To Whom It May Concern:

On June 30, 2000, Qwest closed its merger with U S WEST. U S WEST Communications, Inc. is now Qwest Corporation. The operational aspects of the Company (as it relates to its affairs with the City) remain unchanged. However, we ask that you make the appropriate notation on all of your official municipal records regarding taxes, franchises, licenses, permits, etc.

Sincerely,

Roy A. Adkins

ORDINANCE NO. 1440  
WEST LINN, OREGON

AN ORDINANCE GRANTING A NON-EXCLUSIVE 15 YEAR FRANCHISE (US WEST, INC.) GRANTING THE NON-EXCLUSIVE RIGHT TO PLACE, ERECT AND MAINTAIN POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS AND TO LAY UNDERGROUND WIRES FOR THE TRANSMISSION OF ELECTRICITY FOR TELECOMMUNICATION SERVICE PURPOSES IN, UPON, UNDER AND OVER THE STREETS, ALLEYS, AVENUES, THOROUGHFARES AND PUBLIC HIGHWAYS OF THE CITY OF WEST LINN, OREGON, AND TO CONDUCT A TELECOMMUNICATION UTILITY BUSINESS WITHIN THE CITY OF WEST LINN, AUTHORIZING THE MAYOR TO ENTER INTO SUCH AGREEMENT, AND REPEALING ORDINANCES 997, 1279, 1413, 1426, 1431 AND 1435, AND DECLARING AN EMERGENCY.

WHEREAS, on April 25, 1990, the City granted to Grantee a non-exclusive 8-year franchise for the use of the City streets and public rights of way for telephone communication facilities and approved that franchise pursuant to Ordinance No. 1279; and

WHEREAS, the 8-year life span of the 1990 franchise expired on April 25, 1998, but was extended to December 28, 1998 pursuant to Ordinance No. 1413 adopted by the City Council on June 22, 1998; and it was further extended to March 31, 1999 pursuant to Ordinance No. 1426 adopted by the City Council on December 14, 1998; and it was further extended to June 30, 1999 pursuant to Ordinance No. 1431 adopted by the City Council on March 29, 1999; and it was further extended to August 31, 1999 pursuant to Ordinance No. 1435 adopted by the City Council on June 28, 1999; and

WHEREAS, the City Council believes that the franchise should be renewed under the terms and conditions set forth in Exhibit "A", attached hereto, and by this reference made a part hereof; now, therefore;

THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

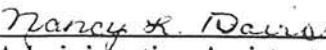
- Section 1:      The terms and conditions of the attached non-exclusive franchise agreement, Exhibit A, are hereby approved and adopted as part of this ordinance as if specifically set forth. The term of this franchise agreement is 15 years from the effective date of this ordinance.
- Section 2:      The Mayor is authorized and directed to sign the attached agreement on behalf of the City.

- Section 3: The City Council determines that the fee imposed by this franchise is not a tax subject to the property tax limitations of Article XI, Section 11 (b) of the Oregon Constitution.
- Section 4: This ordinance shall repeal and replace the prior franchise with Pacific Northwest Bell Telephone Company, Ordinance No. 997, and No. 1279 as amended by ordinances 1413, 1426, 1431, and 1435.
- Section 5: The Grantee shall, within thirty (30) days of the effective date of the ordinance adopting this agreement, file with the City Manager its written acceptance of all the terms and conditions of the ordinance and if not so accepted by the Grantee, this franchise grant shall be void. The acceptance form is attached hereto as Exhibit "B" and incorporated herein by this reference.
- Section 6: Because of the need to have stable telephone communication and the need to have a stable revenue flow to the City from franchise fees, an emergency is declared to exist and this ordinance shall take effect immediately upon its passage by the City Council.

PASSED AND APPROVED this 26th day of JULY, 1999

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
Administrative Assistant

jmc/acm/96030/uswestfranchise7.ord(7/15/99)

ORDINANCE NO. 1440

## **“EXHIBIT A”**

### **A non-exclusive franchise agreement between the City of West Linn and Grantee**

**Section 1: Grant.** Subject to the other terms and conditions set forth in this document there is hereby granted by the City of West Linn to US West Inc., (herein referred to as “Grantee”); subject to the laws of the City, the non-exclusive right and privilege to conduct a telecommunications utility business within the streets and public rights of way of the City, and streets and public rights of way that may come within the jurisdiction of the City during the term of this agreement, this for the purpose of furnishing telecommunications services as defined by the laws of the state of Oregon as of the effective date of this franchise (State Law). This grant includes the right to erect, construct, place, replace, reconstruct, lay, maintain, and operate poles, wires, switching equipment, amplifying equipment, fixtures, facilities, appliances, structures and other devices including, but not limited to, electronic, optical and mechanical devices customarily associated with Grantee’s function, and purpose of providing telecommunications service.

This franchise does not grant the right to conduct any other business including but not limited to the business of providing a “cable system” or an “open video system” as defined by applicable law. Should the Grantee desire to provide a “cable system” or an “open video system” within the City, it must comply with applicable City, State and Federal Law relating to such service in force at that time.

**Section 2: Construction Work.** Grantee shall file with the City Engineer, preliminary maps or sketches showing any proposed construction work to be done by Grantee within the corporate limits of the City. All work done within the corporate limits of the City shall be done in a location approved by the City Engineer. Grantee shall insure that such construction work shall be done in a reasonably safe manner in accordance with requirements of applicable State Laws and City ordinances. In emergencies such filings shall occur within thirty (30) days of completion of emergency construction work. In all circumstances pertinent to this agreement, any action by the Grantee’s contractors shall be the responsibility of the Grantee. Any contractor of the Grantee shall be bound to the requirements of this agreement.

To the extent they are available to Grantee, the Grantee shall maintain on file, at an office in Oregon, maps and operational data pertaining to its operations in the City. The City may inspect the maps and data upon request, provided inspection is for non-competitive reasons. Grantee shall allow inspection within a reasonable time after the request is agreed to by the parties. Consent to inspect shall not be unreasonably withheld by Grantee. Upon request of the City, the Grantee shall furnish to the City, without charge and on a current basis, maps showing the location of the utility system of the Grantee in the City. If requested by Grantee as a condition of complying with a request at the time of delivery of the maps, City will treat the maps as public records exempt from disclosure pursuant to ORS 192.502(4) (1997) or other applicable provision to the extent allowed by law and obliges itself in good faith to not disclose the information.

Section 3: Excavation. Grantee, under the direction of the City Engineer, and after obtaining any permits required by the City, may make all necessary excavations in any street or public right of way for the purpose of erecting, constructing, repairing, maintaining, removing and relocating poles and other supports for its wires, conductors; and laying, repairing and maintaining its underground conduits and pipes; and for placing, maintaining and operating its wires and conductors. Assuming sufficient right of way, all poles of the Grantee shall be erected at the outside edge of the sidewalk unless otherwise directed by the City Engineer.

Section 4: Restoration After Excavation. When an excavation is made pursuant to the provisions of this agreement, the Grantee or its subcontractors shall restore the portion of the street, alley, road or public way or place to good order and condition. All work done shall be subject to the City Engineer's approval. All work shall be done in strict compliance with any permits issued and the rules, regulations, ordinance or others which may be adopted from time to time during the continuance of this franchise by the City Council or as may be otherwise provided by law. If the Grantee or its subcontractor fails, neglects or refuses to do so in a reasonable period of time, the City may restore the same at the expense of the Grantee.

Section 5: Relocation of Poles or Other Equipment. The City shall have the right to cause the Grantee to move the location of any pole whenever the relocation thereof shall be for public necessity, as determined by the City, and the expense thereof shall be paid by the Grantee. If a City request is the result of a request by a third party, the City shall condition the request to Grantee upon the agreement of the third party to pay the expense of the relocation.

Pursuant to ORS 221.420(2)(b), and subject to OAR 860-022-0046, the City shall have the right to require the removal of overhead utility facilities and require the replacement of those facilities with underground utility facilities at the same or different locations. The expense of such a conversion shall be paid in accordance with OAR 860-022-0046. This conversion shall be accomplished in the manner described by the rules of the Public Utility Commission, or in another manner which is mutually agreeable to both the Grantee and the City.

Section 6: City Public Works and Improvements. Nothing in this agreement shall be construed as in any way to prevent the City from excavating, grading, paving, planking, repairing, widening, altering or doing any work that may be desirable on any of the streets or public right of way but all such work shall be done, if possible, in such manner as not to obstruct, injure or prevent free use and operation of the said system of the Grantee.

Provided space is available, the Grantee shall permit the City on a nondiscriminatory basis to string wires on poles and in conduit of the Grantee for municipal fire, police and water departments, and for municipal telephone, telegraph and traffic signal systems and to attach to any pole, City fire alarm and police signals, provided that such wires and signals shall be strung so as to interfere as little as possible with the wires of the Grantee and to conform to the provisions of the National Electrical Safety Code; and further, that the City shall indemnify and hold the Grantee harmless from loss or damage resulting from damage to property or injury or death to City employees or the public arising from or connected with the use of said poles and conduit by the City.



Section 7: Notice to Remove Poles or Other Equipment. Whenever it is necessary in the course of any public works of the City to relocate any pole, underground conduit or equipment belonging to the Grantee or to relocate any pole, underground conduit or equipment on which any wire or circuit of the Grantee is stretched or fastened, the Grantee shall, upon ten (10) days' written notice from the City Engineer, unless another time period is agreed upon by the parties, relocate such pole, underground conduit, equipment, wire or circuit. If it fails, neglects or refuses to do so, the City Engineer may cause the removal of the same at the expense of the Grantee. Prior to any such relocation, the City agrees to provide for a suitable location for such relocated facilities sufficient to maintain services.

Section 8: Temporary Removal or Relocation of Poles or Other Equipment. 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, the Grantee will perform such within a thirty (30) day period from the date requested by the person or persons desiring to move said building, machinery or other objects in a written notice to Grantee.

The notice shall: (1) bear the approval of the City Engineer, (2) detail the route of movement of the building, machinery or other objects, (3) provide that the costs incurred by the Grantee in making such rearrangements of its aerial plant will be borne by the person or persons giving said notice, and (4) shall further provide that the person or persons giving said notice will indemnify and hold the Grantee harmless of and from any and all damages or claims of whatsoever kind or nature caused directly or indirectly from such temporary arrangement of the aerial plant of the Grantee, and, (5) if required by 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 9: Sale or Assignment of Franchise. The Grantee shall not during the term of this franchise sell, assign, transfer, or convey this franchise without first obtaining the consent of the City Council by ordinance which consent should not be unreasonably withheld. The City Council may condition its consent to such sale, assignment, transfer or conveyance upon changes to this franchise it deems to be in the public interest. Upon obtaining such consent, all of the provisions of this franchise shall inure to and bind the successors and assigns of the Grantee; and whenever the Grantee shall be mentioned in this ordinance, it shall be understood to include such successors or assigns in interest of the Grantee as shall have been consented to by the City Council.

If, during the term of this franchise, the Grantee proposes to its shareholders a merger or acquisition in which the Grantee would not be the surviving corporation, the City Council shall have the right to immediately terminate or renegotiate this franchise.

Section 10: Indemnification. The Grantee hereby agrees and covenants to indemnify, save harmless and defend the City and its officers, agents and employees from any and all damages, costs and expenses or claims of any kind whatsoever, or nature, arising from any injury to persons or property by reason of the negligent act or omission of the Grantee, its agents or employees in exercising the rights and privileges granted by this franchise. Grantee shall reimburse City for any

and all costs it reasonably incurs, including but not limited to reimbursement for its staff time, attorney fees and contracted services, in responding to any claim.

Section 11: Notice. All notices and approvals required under this agreement shall be in writing. The Grantee shall provide the City with the name, position and phone number of Grantee staff that can be contacted for administration of this agreement and for contact with construction-related questions and comments.

Such notices and approval shall be directed to the City as follows:

Scott A. Burgess  
City Manager  
City of West Linn  
22825 Willamette Falls Drive  
West Linn, OR. 97068

Section 12: Franchise Fee. In consideration of the rights and privileges hereby granted, allowing provision of telecommunications services, as defined by State Law, Grantee agrees to pay to the City seven percent (7%) of the gross revenues derived from exchange access services, as defined in ORS 401.710 within the City limits less net uncollectibles. Such payments shall be made to the City every six months for the life of this agreement on or before March 15 for the six month period ended December 31, and September 15 for the six month period ended June 30.

Such 7% payment will be accepted by the City from the Grantee also in payment of any license, privilege or occupation tax or fee for revenue or regulation, or any permit fees or similar charges for street opening, installations, construction or for any other purpose related to providing telecommunications services as defined by State Law, now or hereafter to be imposed by the City upon the Grantee during the term of this franchise.

The City shall have the right to increase the franchise fee at any time during the life of this franchise to an amount not to exceed any limit established by state law provided it has given such notice in writing at least 180 days prior to the effective date of any change.

The City shall have the right to conduct or cause to be conducted, an audit of the revenue base upon which the franchise fee is calculated. Such audits may be conducted at two year intervals beginning two years after the effective date of this agreement. The City shall conduct the audit at its own expense. Any difference of payment due either the City or Grantee through error or otherwise as agreed upon by both the City and Grantee, shall be payable within sixty (60) days after issuance of a written notice to pay.

Section 13: Term, Termination of Franchise. Subject to early termination or amendment as provided by this franchise, the rights, privileges and franchise hereby granted shall continue to be in full force for a period of 15 years from the date this ordinance becomes effective. This ordinance shall take effect and be in force on the day of its passage and approval subject to filing by Grantee of the required written acceptance. This ordinance shall be subject to any and all State or Federal laws and regulations.

Beginning on the fifth anniversary of the effective date of this franchise and continuing through the life of the franchise, any term of this franchise may be amended by agreement of the parties and the city may unilaterally terminate this franchise as of each anniversary date, after having given at least 180 days prior written notice to Grantee of its intention to terminate this franchise.

Upon the willful failure of the Grantee, after thirty (30) days' notice and demand in writing, to perform promptly and completely each and every term, condition or obligation imposed upon it under or pursuant to this agreement, the City may terminate this franchise subject to Grantee's right to a court review of the reasonableness of such action.

Section 14: Remedies Not Exclusive: When Requirement Waived. All remedies and penalties under this agreement, including termination of the franchise, are cumulative, and the recovery or enforcement of one is not a bar of the recovery or enforcement of any other such remedy or penalty. The remedies and penalties contained in this agreement, including termination of the franchise, are not exclusive, and the City reserves the right to enforce the penal provisions of any ordinance or resolution and to avail itself of any and all remedies available to law or in equity. Failure to enforce shall not be construed as a waiver of a breach of any term, condition or obligation imposed upon the Grantee by or pursuant to this agreement. A specific waiver of a particular breach of any term, condition or obligation imposed upon the Grantee by or pursuant to this agreement shall not be a waiver of any other or subsequent or future breach of the same or of any other term, condition or obligation, or a waiver of the term, condition or obligation itself.

Section 15: Non-Exclusive Franchise. The franchise hereby granted shall not be exclusive and shall not be construed as any limitation on the City to grant rights, privileges and authority to other persons or corporations similar to or different from those herein set forth.

jmc/acm/96030/uswestfranchise7.exh(7/15/99)



**"EXHIBIT B"**

**FRANCHISE AGREEMENT ACCEPTANCE**

WHEREAS, CITY OF WEST LINN, OREGON on July 26, 1999, passed ORDINANCE NO. 1440 entitled as follows:

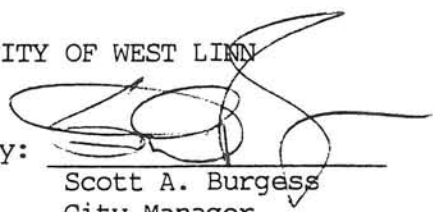
AN ORDINANCE GRANTING A NON-EXCLUSIVE 15 YEAR FRANCHISE (US WEST, INC.) GRANTING THE NON-EXCLUSIVE RIGHT TO PLACE, ERECT AND MAINTAIN POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS AND TO LAY UNDERGROUND WIRES FOR THE TRANSMISSION OF ELECTRICITY FOR TELECOMMUNICATION SERVICE PURPOSES IN, UPON, UNDER AND OVER THE STREETS, ALLEYS, AVENUES, THOROUGHFARES AND PUBLIC HIGHWAYS OF THE CITY OF WEST LINN, OREGON, AND TO CONDUCT A TELECOMMUNICATION UTILITY BUSINESS WITHIN THE CITY OF WEST LINN, AUTHORIZING THE MAYOR TO ENTER INTO SUCH AGREEMENT, AND REPEALING ORDINANCES 997, 1279, 1413, 1426, 1431 AND 1435, AND DECLARING AN EMERGENCY.

NOW, THEREFORE, the undersigned, the Grantee named in Ordinance No. 1440, accepts all the terms, conditions and provisions of Ordinance No. 1440 and agrees to be bound thereby and comply therewith.

IN WITNESS WHEREOF, Grantee has caused this instrument to be executed by its officers as below described this 25th day of August, 1999.

CITY OF WEST LINN

By:


  
Scott A. Burgess  
City Manager

GRANTEE

By:

Title:

Date:

  
Vice Pres. - Oregon


8/25/99

Received by the City of West Linn this 2nd day of September, 1999.

City of West Linn

# MEMORANDUM

City Manager

TO: Tim Ramis, City Attorney  
FROM: Scott A. Burgess, City Manager   
DATE: May 10, 1998  
SUBJECT: US West Franchise Renewal

Please review the enclosed proposed ordinances and related information and advise me on language and process for renewing the City's franchise with US West in the best interests of the City.

I met with Dennis N. Tooley, Public Policy Manager, US West, last week to discuss the expiration (5/9/98) and renewal of our franchise. Dennis said US West was interested in renewing and proposed the attached ordinance. Exhibit A has a 30-day effective date and Exhibit B has an emergency clause.

I have attached copies of Ordinances #'s 997 and 1279. The franchise expired May 9, 1998. Dennis said US West would honor these ordinances (franchise) until a new one could be enacted. I asked Dennis to put that in writing.

Two changes Dennis pointed out as significant in the proposed ordinances (A & B) are:

1) Section 6: "...seven percent (7%) per annum of its gross revenues derived from exchange access services as defined in ORS 401.710 within the corporate limits of the City of West Linn less net uncollectibles..." Dennis pointed out this was in the City's favor, i.e. it would result in slightly more revenue than the existing language which refers to "... less net uncollectibles and revenue paid directly the Grantee by the United States of America or any of its agencies..." I don't guess I have any problems with this language as I understand it.

2) Section 7: "...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 or renegotiate this Agreement after 180 days notice in writing. This Ordinance shall be subject to any and all State or Federal legislative enactments."

In this case, Dennis said this was language worked out with the League of Oregon Cities and standard since 1986 (?). He said cities were reluctant to sign long term franchises because legislation was changing, and, on the other side, US West's financial types were interested in a long term franchise for bond security. He

Tim Ramis, City Attorney  
May 10, 1998  
Page 2

mentioned Happy Valley and Gladstone recently renewed their franchises with this language; Lake Oswego, one year ago; and, Oregon City, two years ago.

Some how this argument does not ring true to me. Current Federal and State legislation appears to be prone to change in the industry's favor, I think I would rather sign for 20 years as telecommunications is define now. Any change, which we find beneficial, should allow us to reopen.

Let me know what you think.

Enclosures

AN ORDINANCE GRANTING TO US WEST COMMUNICATIONS, INCORPORATED, 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 WEST LINN, POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE AND OTHER COMMUNICATION PURPOSES; AND REPEALING ORDINANCE NOS. 997 AND 1279.

THE CITY OF WEST LINN, OREGON ORDAINS AS FOLLOWS:

Section 1. There is hereby granted by the City of West Linn to US WEST Communications, Incorporated, its successors and assigns, the right and privilege to do a general communication business within said City of West Linn 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 highways, 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 West Linn.

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 West Linn, 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 proper authorities of the City of West Linn 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 West Linn 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 Chapters 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, Incorporated, its successors and assigns, shall pay to the City of West Linn 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 401.710 within the corporate limits of the City of West Linn 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 1999 payment shall be made only for the period commencing on the date this ordinance becomes effective and ending December 31, 1998. Such payment made by the Grantee will be accepted by the City of West Linn 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 West Linn upon the Grantee during the term of this franchise.

Section 7. 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 or renegotiate this Agreement after 180 days notice in writing. This Ordinance shall be subject to any and all State or Federal legislative enactments.

Section 8. 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 Recorder of the City of West Linn its written acceptance of all the terms and conditions of the Ordinance.

Section 9. Ordinance Nos. 997 and 1279 are hereby repealed.

PASSED AND ADOPTED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

APPROVED by the Mayor the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Recorder

ORDINANCE NO. \_\_\_\_\_

*emergency clause*  
*Exhibit B*

AN ORDINANCE GRANTING TO U S WEST COMMUNICATIONS, INCORPORATED, 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 WEST LINN, POLES, WIRES AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE AND OTHER COMMUNICATION PURPOSES; AND REPEALING ORDINANCE NOS. 997 and 1279.

THE CITY OF WEST LINN, OREGON ORDAINS AS FOLLOWS:

Section 1. There is hereby granted by the City of West Linn to U S WEST Communications, Incorporated, its successors and assigns, the right and privilege to do a general communication business within said City of West Linn 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 highways, 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 West Linn.

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 West Linn, 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 proper authorities of the City of West Linn 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 West Linn 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 Chapters 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, Incorporated, its successors and assigns, shall pay to the City of West Linn 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 401.710 within the corporate limits of the City of West Linn 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 1999 payment shall be made only for the period commencing on the date this ordinance becomes effective and ending December 31, 1998. Such payment made by the Grantee will be accepted by the City of West Linn 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 West Linn upon the Grantee during the term of this franchise.

Section 7. 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 or renegotiate this Agreement after 180 days notice in writing. This Ordinance shall be subject to any and all State or Federal legislative enactments.

Section 8. It is hereby adjudged and declared that existing conditions are such that this Act is necessary for the immediate preservation of the public peace, health and safety and an emergency is hereby declared to exist; this Ordinance shall be in full force and effect upon its passage by the Common Council and its approval by the Mayor and its acceptance by the Grantee who shall, within thirty (30) days of the passage, file its written acceptance with the Recorder of the City. If accepted by the Grantee, the effective date of the Ordinance shall be the date of passage.

Section 9. Ordinance Nos. 997 and 1279 are hereby repealed.

PASSED AND ADOPTED by the City Council this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

APPROVED by the Mayor the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Recorder

ORDINANCE NO. 1279

AN ORDINANCE AMENDING ORDINANCE NO. 997 AND GRANTING TO PACIFIC NORTHWEST BELL TELEPHONE COMPANY 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 WEST LINN, POLES, WIRES, AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE, TELEGRAPH, AND OTHER COMMUNICATION PURPOSES.

THE CITY OF WEST LINN DOES ORDAIN AS FOLLOWS:

**Section 1.** There is hereby granted by the City of West Linn to Pacific Northwest Bell Telephone Company, its successors and assigns, the right and privilege to do a general communication business within said City of West Linn 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, telegraph and other communication 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 Pacific Northwest Bell Telephone Company, its successors and assigns, to make all needful excavations in any of such streets, alleys, avenues, thoroughfares, and public highways, places and grounds in said City for the purpose of placing, erecting, laying and maintaining poles, or other supports or conduits for said wires and appliances and auxiliary apparatus or repairing, renewing or replacing the same. Said 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 West Linn.

**Section 3.** Wherever Pacific Northwest Bell Telephone Company, 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 West Linn 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 said Company, its successors and assigns, the said City shall cause such repairs to be made at the expense of said Pacific Northwest Bell Telephone Company, its successors and assigns.



**Section 4.** Nothing in this Ordinance shall be construed in any way to prevent the proper authorities of the City of West Linn 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 West Linn in or upon which the poles, wires, or other conductors of said Company 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 the Company 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 Company's right therein or without requiring Company to be compensated for 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 Company 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 Company 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 Engineer for the City, shall detail the route of movement of the building, machinery or other object, shall provide that the costs incurred by the Company 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 or claims of whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the aerial facilities of the Company, and if required by the Company, shall be accompanied by a cash deposit or a good and sufficient bond to pay any and all such costs as estimated by the Company.

**Section 6.** In consideration of the rights, privileges, and franchise hereby granted, said Grantee, Pacific Northwest Bell Telephone Company, its successors and assigns, shall pay to the City of West Linn from and after the effective date of the amendment to this franchise, and until June 30, 1990, annually, three percent (3%) per annum of its gross local service revenues derived from services within the corporate limits of the City of West Linn less net uncollectibles and revenue paid directly to the Grantee by the United States of America or any of its agencies. Effective July 1, 1990, and until the franchise's expiration, said Grantee shall pay to the City of West Linn annually, seven percent (7%) of its gross revenues derived from exchange access services, as defined in ORS 401.710, within the corporate limits of the City of West Linn less net uncollectibles and revenue paid directly to the Grantee by the United States of America or any of its agencies. The reasonable value of any utility service or the use of any Grantee facilities used or reserved for use by the City without Grantee's prescribed charges shall be credited toward any payment due the City under this provision. Payment of this franchise fee shall be made on or before the fifteenth day of March of each and every year for the

calendar year preceding. For the year 1990, payment of said three percent (3%) shall be made only for the period January 1, 1990 to June 30, 1990 and payment of said seven percent (7%) shall be made for the period July 1, 1990 to December 31, 1990. Such payments made by the Grantee will be accepted by the City of West Linn 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 West Linn upon the Grantee during the term of this franchise.

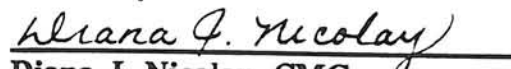
**Section 7.** The rights, privileges and franchise herein granted shall continue and be in force for the period of eight (8) years from and after the date of this Ordinance becomes effective.

**Section 8.** This ordinance shall take effect on the 25th day of April, 1990.

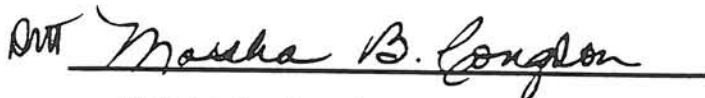
Passed by the Common Council this 25th day of April, 1990.

  
Robert P. Liddell, Mayor

ATTESTED BY:

  
Diana J. Nicolay, CMC  
City Recorder

APPROVED AND ACCEPTED BY THE PACIFIC NORTHWEST BELL  
TELEPHONE COMPANY THIS 9 DAY OF MAY, 1990.

  
Marsha B. Congdon  
Vice President and CEO - Oregon

ORDINANCE NO. 997

AN ORDINANCE GRANTING TO PACIFIC NORTHWEST BELL TELEPHONE COMPANY 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 WEST LINN, POLES, WIRES, AND OTHER APPLIANCES AND CONDUCTORS FOR ALL TELEPHONE, TELEGRAPH, AND OTHER COMMUNICATIONS PURPOSES.

THE CITY OF WEST LINN DOES ORDAIN AS FOLLOWS:

Section 1. There is hereby granted by the City of West Linn to Pacific Northwest Bell Telephone Company, its successors and assigns, the right and privilege to do a general communication business within said City of West Linn 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, telegraph and other communication 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 Pacific Northwest Bell Telephone Company, its successors and assigns, to make all needful excavations in any of such streets, alleys, avenues, thoroughfares, and public highways, places and grounds in said City for the purpose of placing, erecting, laying and maintaining poles, or other supports or conduits for said wires and appliances and auxiliary apparatus or repairing, renewing or replacing the same. Said 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 West Linn.

Section 3. Wherever Pacific Northwest Bell Telephone Company 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 West Linn 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 said Company, its successors and assigns, the said City shall cause such repairs to be made at the expense of said Pacific Northwest Bell Telephone Company, its successors and assigns.

Section 4. Nothing in this Ordinance shall be construed in any way to prevent the proper authorities of the City of West Linn 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 West Linn in or upon which the poles, wires, or other conductors of said Company 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 the Company 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 Company's right therein or without requiring Company 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 Company 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 Company 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 Engineer for the City, shall detail the route of movement of the building, machinery, or other object, shall provide that the costs incurred by the Company 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 or claims of whatsoever kind or nature caused directly or indirectly from such temporary rearrangement of the aerial facilities of the Company, and if required by the Company, shall be accompanied by a cash deposit or a good and sufficient bond to pay any and all such costs as estimated by the Company.

Section 6. In consideration of the rights, privileges, and franchise hereby granted, said grantee, Pacific Northwest Bell Telephone Company, its successors and assigns, shall pay to the City of West Linn from and after the date of the acceptance of this franchise, and until its expiration, annually, three percent (3%) per annum of its gross local service revenues derived from services within the corporate limits of the City of West Linn less net uncollectibles, and revenue paid directly by the United States of America or any of its agencies. The reasonable value of any utility service or the use of any Company facilities used or reserved for use by the City without charge shall be credited toward any payment due the City under this provision. Payment of said three percent (3%) 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 1978 payment shall be made only for the period commencing on the date this franchise becomes effective and ending December 31, 1978 and such 3% payment made by the grantee will be accepted by the City of West Linn from the grantee, also in payment of any license,

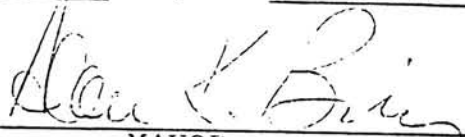
privilege or occupation tax or fee for revenue or regulation, or any permit of inspection fees or similar charges for street openings, installations, construction or for any other purpose now or hereafter to be imposed by the City of West Linn upon the grantee during the term of this franchise.

Section 7. 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, at any time within the ninety day period prior to ten years from the effective date, renegotiate the terms of this agreement upon notice of writing.

Section 8. This ordinance shall take effect on the 12th day of April, 1978

Passed by the Common Council this 8th day of March, 1978.

Approved by the Mayor this 8th day of March, 1978.

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
RECORDER

APPROVED AND ACCEPTED BY THE PACIFIC NORTHWEST BELL  
TELEPHONE COMPANY THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1978.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FORM APPROVED
Date <u>4/25/78</u>
By <u>BSB</u>
Legal Department
Pacific Northwest Bell



## CITY OF WEST LINN, OREGON

TO THE MAYOR AND COUNCIL OF THE CITY OF WEST LINN:

WHEREAS, on the 8th day of April, 1978, the Council of the City of West Linn, Oregon passed Ordinance No. 997 entitled:

AN ORDINANCE granting to Pacific Northwest Bell Telephone Company, 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 West Linn, poles, wires and other appliances and conductors for telephone, telegraph and other communications purposes.

WHEREAS, said ordinance was duly signed on the 8th day of April, 1978 by the Mayor of said City, and attested to by the City Recorder:

WHEREAS, said Ordinance was granted upon the condition that the said grantee shall file with the Recorder of the City of West Linn its written acceptance of all the terms and conditions of said Ordinance:

Now, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that Pacific Northwest Bell Telephone Company does hereby accept Ordinance No. 997 and all the terms and conditions of said Ordinance, it being understood that the adoption and acceptance of said Ordinance constitutes a termination and cancellation of franchise Ordinance No. 580

IN WITNESS THEREOF, Pacific Northwest Bell Telephone Company has caused this acceptance to be duly executed this 10<sup>th</sup> day of May, 1978.

PACIFIC NORTHWEST BELL TELEPHONE COMPANY

BY

[Signature]  
Vice President - Oregon

Attest:

[Signature]  
Assistant Secretary

Receipt of the original of the duly executed acceptance by Pacific Northwest Bell Telephone Company of all the terms and conditions of that certain Ordinance No. 997 of the City of West Linn, Oregon, is hereby admitted this 25TH day of MAY, 1978.

FORM APPROVED
Date <u>4/25/78</u>
By <u>[Signature]</u>
Legal Department
of Northwest Bell

[Signature]  
Recorder of the City of West Linn, Oregon

