

ORDINANCE No. 176156

*Extend the term of a temporary, revocable permit granted by Ordinance Number 175757 for an additional nine months (Ordinance; Amend Ordinance No. 175757)

The City of Portland ordains:

Section 1. The Council finds:

1. On December 29, 1999, the City Council adopted Ordinance No. 174037, giving US West Communications, Inc. 18 months notice of the termination of the revocable permit granted to its predecessor-in-interest under Ordinance Nos. 62017, 72807 and 113560. The 18 months expired on or about June 30, 2001.
2. In June 2001, Qwest filed a lawsuit against the City asserting that the City's policies and procedures for right of way management and compensation were preempted by federal law.
3. On July 5, 2001, the City Council granted a temporary, revocable, permit to Qwest Communications, Inc., to build and operate telecommunications facilities within the City's streets in order to allow Qwest to continue serving customers in Portland. Ordinance No. 175757. This permit expires on or about December 31, 2001.
4. Ordinance No. 175757 referred to "Qwest Communications, Inc., a Delaware corporation." Qwest has informed staff for the City of Portland that the reference should be to "Qwest Corporation, a Colorado corporation." This reference should be corrected throughout the ordinance.
5. Any person seeking to perform work in the City streets, including City bureaus, must first apply for and obtain a permit from the City Engineer. PCC 17.24.010(A). The Portland City Code prohibits the issuance of any street permits unless the applicant has first obtained a franchise or other separate grant of authority from the City Council. PCC 17.24.010(B).
6. The legal dispute between the City and Qwest has not yet been resolved. Qwest has indicated that it wants to continue to use City streets for its telecommunications facilities, and to obtain permits to perform work in the City streets.
7. Under the current circumstances, the term of the ordinance should be extended until September 30, 2002, to allow for adequate time in which to obtain a final determination in the trial court on Qwest's legal claims.

NOW, THEREFORE, the Council directs:

- a. Ordinance Number 175757 is hereby amended to extend the term of the permit, continuously and without interruption, from January 1, 2002 to September 30, 2002.
- b. References in Ordinance No. 175757 to "Qwest Communications, Inc., a Delaware corporation" shall be replaced by interlineation with "Qwest Corporation, a Colorado

corporation” and references to “Qwest Communications, Inc.” shall be similarly replaced with “Qwest Corporation.”

- c. All other terms and conditions of the temporary, revocable permit shall remain the same and unchanged.
- d. On or before the ten (10th) day after this ordinance becomes effective, Qwest shall file in the Office of the Auditor of the City of Portland a written acceptance of this ordinance, executed by Qwest, meeting the approval of the City Attorney. Any failure on the part of Qwest to file such written acceptance within such time shall be deemed an abandonment and rejection of this ordinance, and this ordinance shall thereupon be null and void. Such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms contained in this ordinance.

Section 2. The Council declares an emergency exists because a lapse in Qwest’s authority to use the public right-of-way could cause disruption in customer services, harming the public welfare; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Mayor Vera Katz
MBHenry/BWalters
November 8, 2020

Passed by the Council: DEC 19 2001

Gary Blackmer
Auditor of the City of Portland
By: /S/ Susan Parsons
Deputy

BACKING SHEET INFORMATION

AGENDA NO. 1462-2001

ORDINANCE/RESOLUTION/COUNCIL DOCUMENT NO. 176156

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
FRANCESCONI	X	
HALES	X	
SALTZMAN	X	
STEN	X	
KATZ	X	