

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Granting to MCI Communications Services, Inc., a Non-Exclusive Franchise to Use the Public Way to Construct and Maintain Public Communications Facilities within the City of Eugene.

Meeting Date: November 17, 2014
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Pam Berrian
Contact Telephone Number: 541-682-5590

ISSUE STATEMENT

The council is being asked to hold a public hearing in preparation of a November 24, 2014, action request by MCI Communications, a wholly-owned subsidiary of Verizon Communications. The public hearing is related to MCI's request for a long-term, non-exclusive franchise for use of the public rights-of-way (ROW) for telecommunications purposes. At this time, MCI is occupying less than 1,000 linear feet of public rights-of-way as a pass-through or long-haul carrier, and MCI attests that it does not service Eugene customers. As such, Ordinance 20083, relating to ROW licensing and gross revenue-based fees and taxes does not apply. The Eugene City Charter provides authority in this instance to grant use and determine a fee structure through a franchise adopted by the City Council.

BACKGROUND

The Eugene City Council has infrequently adopted similar City Charter agreements with authorized pass-through rights-of-way (ROW) users that fall outside the scope of Ordinance 20083 ROW Licensing procedures. These have included Burlington Northern Santa Fe Railroad, Level 3 Communications, and Williams Communications. Currently, Oregon State statutes allow franchise terms of up to 20 years. Generally, elements of the franchise are negotiated where local, state, or federal law is silent, such as, in this case, per-foot fees for a pass-through carrier.

Staff is proposing a 20-year franchise with three, five-year openers allowing re-negotiation of terms and conditions, at an annual franchise fee of \$4 per linear foot. This rate is consistent with treatment of similar providers. The annual franchise fee will be applied to the ROW linear feet occupied and contains a provision that transitions the franchise to an Ordinance 20083 License should the facilities be utilized in the provision of billed services to Eugene customers.

RELATED CITY POLICIES

The Eugene City Council has a long history of granting franchises for the use of the public-way whereby users make agreements relating to conditions of use and fees. Chapter 10 of the City Charter outlines procedures for franchising.

Telecommunications Ordinance 20083 standardizes and streamlines those procedures into a licensing function, but pass-through carriers with no Eugene customers are not currently addressed in that ordinance. In the proposed franchise, staff incorporated pertinent Eugene Code provisions such as conditions for construction and maintenance of the ROW. Staff considers the negotiated fee reasonable. The City Attorney reviewed the franchise language for consistency with accepted municipal standards and protections. MCI is responsible for obtaining and paying for any necessary street construction permits from the City should it reduce or increase its use of the ROW.

COUNCIL OPTIONS

No City Council action or recommendations are suggested. This is a public hearing only.

CITY MANAGER'S RECOMMENDATION AND SUGGESTED MOTION

No council action or motions are suggested. This is a public hearing only.

ATTACHMENTS

A. Draft Franchise

FOR MORE INFORMATION

Staff Contact: Pam Berrian
Telephone: 541-682-5590
Staff E-Mail: pam.c.berrian@ci.eugene.or.us