

ORDINANCE NO. 5703

AN ORDINANCE AMENDING CHAPTER 3.50 OF THE ALBANY MUNICIPAL CODE (MCI WORLDCOM NETWORK SERVICES, INC., FRANCHISE) BY RENEWING THE CURRENT AGREEMENT UNTIL SEPTEMBER 11, 2011; AND DECLARING AN EMERGENCY.

WHEREAS, the franchise fee agreement with MCI WorldCom Network Services, Inc., will expire as of September 11, 2008;

WHEREAS, MCI WorldCom Network Services, Inc. is requesting a new franchise agreement, and

WHEREAS, MCI WorldCom Network Services, Inc. has been renamed to MCI Communications Services, Inc., successor in interest to MCI WorldCom Network Services, Inc.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO HEREBY ORDAIN AS FOLLOWS:

Chapter 3.50 is amended to read:

Chapter 3.50  
**MCI WORLDCOM NETWORK COMMUNICATIONS SERVICES, INC.**

Section 1:

3.50.020 Excavation and construction

...All transmission and distribution structures, lines, and equipment erected by the Franchisee within the City shall be so located as to **not** cause ~~minimum~~ interference with the proper use of streets, bridges, and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the streets, bridges, or other public ways or places.

3.50.080 Improvements – Utility obstruction prohibited

... Nothing in this chapter shall be construed in any way to prevent the proper authorities of the City from sewerage (sanitary and storm), providing water service, grading, planking, rocking, paving, repairing, altering, or improving any of the streets, alleys, avenues, thoroughfares, and public highways, places and grounds within the City in or upon which the poles, wires or other conductors of Franchisee shall be placed. 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 moving of the Franchisee' company** facilities, where required due to such work by the City, will be done by Franchisee without cost to the City.

3.50.130 Payment

Effective September 11, ~~2000~~ 2008, and until the franchise's expiration, said Franchisee shall pay to the City, annually, \$2.00 per linear foot of conduit and/or cable owned and maintained by Franchisee. This franchise fee shall be deposited in the U.S. mail, postage prepaid, addressed to the ~~Administrative Services~~

~~Director of the City Finance Director~~ and postmarked on or before the last business day of September. If a payment is not mailed by the date set forth above, the payment shall be deemed delinquent and shall accrue interest at the rate of nine percent per annum from the date of the applicable reporting period. The franchise payments made by Franchisee will be accepted by the City from the Franchisee, in payment of any separate fees that are imposed by the City on Franchisee for street openings, construction or inspection, or maintenance of fixtures or facilities. However, Franchisee shall not deduct charges and penalties imposed by the City for noncompliance with charter provisions, ordinances, resolutions, or permit conditions from the franchise fee required by this chapter. Franchisee shall also pay to the City as additional consideration under this franchise an administrative fee totaling \$2,000, ~~due on the effective date of this franchise, which may be deducted from Franchisee's payment set forth herein.~~

3.50.170 Continuation – Termination

The rights, privileges, and franchise herein granted shall continue and be in force until ~~September 11, 2005, September 11, 2011~~, except that it is understood and agreed that either party may at any time terminate or renegotiate this agreement upon six months' notice in writing.

Section 2: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the City of Albany, an emergency is hereby declared to exist. This ordinance will be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

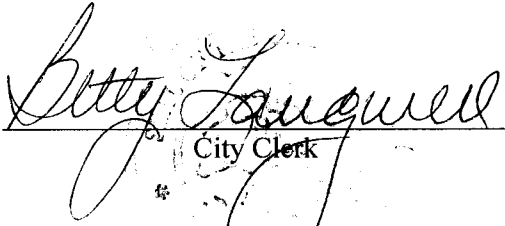
Passed by the Council: September 10, 2008

Approved by the Mayor: September 10, 2008

Effective Date: September 10, 2008

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk