

MOTION NO. 8511

1 A MOTION authorizing the executive to grant a
2 utility easement for a utility cabinet and
3 four-foot concrete pad to U.S. West
Communications in Council District 9.

4 WHEREAS, under King County Code 4.56.010 the King County
5 council may authorize the King County executive to grant an
6 easement through county property, and

7 WHEREAS, U.S. West Communications wishes to install, operate
8 and maintain a utility cabinet and four-foot concrete pad on the
9 South Public Health Center property to serve area customers, and

10 WHEREAS, the Seattle-King County health department manages the
11 South Public Health Center property and supports the granting of
12 this utility easement, and

13 WHEREAS, U.S. West Communications has agreed to perform
14 certain landscaping improvements along the east, west and north
15 perimeter of the easement area, and

16 WHEREAS, the landscaping improvements will be completed prior
17 to the final execution of the easement, and

18 WHEREAS, U.S. West Communications shall pay \$500.00 (Five
19 Hundred Dollars), payable to the King County office of finance and
20 assigned to the Seattle-King County health department, as financial
21 consideration for the easement, and

22 WHEREAS, the King County council finds that the granting of
23 this utility easement will not interfere with the use of the
24 property by the health department, and that the rights requested by
25 U.S. West Communications are surplus to the county's present and
26 foreseeable needs, and

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NOW, THEREFORE, BE IT MOVED by the Council of King County:

The county executive is hereby authorized to sign and deliver to U.S. West Communications a utility easement, substantially in the form of Exhibit "A," for the installation, operation, and maintenance of a utility cabinet and a four-foot concrete pad and its appurtenances over, under, across and through the following described property, situated in King County, Washington.

Property located in the NW 1/4 of Section 18, Township 21 North, Range 5 East, more particularly described as that portion of Lot 10, Block 2, Ballards Commercial Addition to Auburn, according to the plat thereof, as recorded in Volume 29 of plats, Page 49, records of King County, Washington, described as follows:

Commencing at the southwest corner of Lot 10; thence North 86°42'00" East along the South line thereof, a distance of 45.53 feet to the True Point of Beginning; thence North 3°13'55" West, a distance of 23.78 feet; thence East 5.00 feet thence South 23.78 feet to the South edge of property; thence West 5.00 feet to the True Point of Beginning.

Situate in the County of King, State of Washington.

PASSED this 10th day of February, 1992

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Andy Linger
Chairman

ATTEST:

Gerald A. Peterson
Clerk of the Council

UTILITY EASEMENT

8511

THIS INDENTURE made this _____ day of _____, 19____, between King County, a political subdivision of the State of Washington, hereinafter called the Grantor, and U. S. West Communications, a Colorado corporation, hereinafter called the Grantee.

W I T N E S S E T H

WHEREAS, that for and in consideration of Five Hundred Dollars (\$500.00), the Grantor herein does by these presents grant quit claim unto the Grantees their successors and assigns, an easement over, under, across, and through the following described property situated in King County, Washington, to wit:

Property located in the NW 1/4 of Section 18, Township 21 North, Range 5 East, more particularly described as that portion of Lot 10, Block 2, Ballards Commercial Addition to Auburn, according to the plat thereof, as recorded in Volume 29 of plats, Page 49, records of King County, Washington, described as follows:

Commencing at the southwest corner of Lot 10; thence North 86°42'00" East along the South line thereof, a distance of 45.53 feet to the True Point of Beginning; thence North 3°13'55" West, a distance of 23.78 feet; thence East 5.00 feet thence South 23.78 feet to the South edge of property; thence West 5.00 feet to the True Point of Beginning.

Situate in the County of King, State of Washington.

Purpose: The Grantee, its successors and assigns, shall have the rights to construct, install, operate, maintain, repair, and remove their forty-type cabinet and four foot concrete pad over, under, across, and through the easement area, together with all necessary or reasonable appurtenances thereto.

The Grantor and Grantee herein, by accepting and recording this easement, agree to the terms and conditions described in Appendix "A" attached hereto, and by reference made part of this agreement.

DATED this _____ day of _____, 19____.

GRANTEE: U. S. WEST COMMUNICATIONS,
A COLORADO CORPORATION

GRANTOR: KING COUNTY,
WASHINGTON

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this day _____ of _____, 19_____,
before me personally appeared _____
and _____

to me known to be the _____
and _____
of the corporation that executed the foregoing instrument, and
acknowledged said instrument to be the free and voluntary act and
deed of said corporation for the uses and purposes therein
mentioned, and on oath stated that _____
authorized to execute said instrument, and that the seal affixed
is the corporate seal of said corporation.

GIVEN under my hand and official seal the day and year last
above written.

NOTARY PUBLIC in and for the State
of Washington, residing at: _____

My commission expires: _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this day personally appeared before me, _____

to me known to be the person who signed the above and foregoing
instrument for the uses and purposes therein stated and
acknowledged to me that he signed the same as the free and
voluntary act and deed of King County, and that he was authorized
to so sign.

GIVEN under my hand and official seal this _____ day of
_____, 19_____.

NOTARY PUBLIC in and for the State of
Washington, residing at _____

My commission expires: _____

APPROVED AS TO FORM:

BY [Signature]
Deputy Prosecuting Attorney
DATE 12.3.91

APPENDIX "A"

Terms and conditions applicable to the easement granted by King County.

1. PERMIT REQUIRED. Before any work is performed under this agreement, Grantee must obtain a Right-of-way Construction Permit or a Utility Use Permit from the Real Property Division. Before any permit will be issued, Grantee must submit complete plans and specifications of the proposed project, including details of landscaping, and comply with any and all other provisions as more specifically set forth in the permit application.
2. RESTORATION AFTER INSTALLATION. After any construction by the Grantee involving the use of Grantor's property, Grantee will return the Grantor's property to its original condition, or to a condition satisfactory to the Grantor by repairing any damage done to Grantor's property including but not limited to property damage to slopes, shrubbery, landscaping, fencing, roadway, or structures.
3. DAMAGES. If any damage is caused by reason of performing any act authorized by this easement, Grantee will promptly pay the damaged party the amount necessary to put the damaged party in the position he would have been in had the damage not occurred.

King County will not be held liable to Grantee for any damages that may occur by reason of the County's or other governing body's improvements, repairs, or maintenance, or by the exercise of any rights reserved in this section.

4. EMERGENCY SITUATIONS. In the event of an emergency, the Grantee will take immediate steps to perform any necessary repairs. If the Grantee fails to perform any necessary repairs, the Grantor may do all work necessary at the sole cost and expense of Grantee.
5. ASSESSMENTS. Grantor and its property shall not be subjected to any charge, assessment, or expense resulting from Grantee's easement excepting those agreed upon prior to the granting of this Easement. If the Grantor or its property is legally subjected to any charge, assessment, or expense after the granting of this easement, Grantee will pay Grantor, as additional compensation for rights granted by this document, the amount of charge, assessment, or expense paid by the Grantor.
6. INDEMNITY AND HOLD HARMLESS. The Grantee agrees to indemnify and hold harmless King County as provided herein to the maximum extent possible under law. Accordingly, the Grantee agrees for itself, its successors and assigns to defend, indemnify, and hold harmless King County, its appointed and elected officials, and employees from and against liability for all claims, demands, suits, and judgments including costs of defense thereof for injury to persons, death, or property damage which is caused by, arises out of, or is incidental to Grantee's exercise of rights and privileges granted by this easement. The Grantee's obligations under this section shall include:
 - (a) Indemnification for such claims whether or not they arise from the sole negligence of either the County or the Grantee, the concurrent negligence of both parties, or the negligence of one or more third parties.
 - (b) The duty to promptly accept tender of defense and provide defense to the County at the Grantee's own expense.
 - (c) Indemnification of claims made by the Grantee's own employees or agents.
 - (d) Waiver of the Grantee's immunity under the industrial insurance provisions of Title 51 RCW, but only to the extent necessary to indemnify the County, which waiver has been mutually negotiated by the parties.

In the event it is necessary for the County to incur attorney's fees, legal expenses, or other costs to enforce the provisions of this section, all such fees, expenses, and costs shall be recoverable from the Grantee.

In the event it is determined that RCW 4.24.115 applies to this easement agreement, the Grantee agrees to defend, hold harmless, and indemnify King County to the maximum extent permitted thereunder, and specifically for its negligence concurrent with that of King County to the full extent of Grantee's negligence. Grantee agrees to defend, indemnify, and hold harmless the County for claims by Grantee's employees and agrees to waiver of its immunity under Title 51 RCW, but only to the extent necessary to indemnify the County, which waiver has been mutually negotiated by the parties.

7. NON-EXCLUSIVE EASEMENT. This easement is not exclusive. It does not prohibit King County from granting other easements of a similar nature or easements for other public or private utilities in, under, over, and across any County property.
8. JURISDICTION. This easement is not a warranty of title or title of interest in county property. It is intended to convey limited rights and interest only for the construction, operation, maintenance, and repair of Grantee's facilities and appurtenances on county property in which King County has an actual interest.

This easement does not affect King County's jurisdiction over any county property covered by this easement.

This easement does not deprive King County of any powers, rights, or privileges it now has or may later acquire in the future to regulate the use of and to control the county property covered by this easement.
9. RESERVATIONS. Grantor reserves to itself, licensees, lessees, successors and assigns the right to continue to keep, use, or operate all other facilities or structures now on, under, or over the described easement. The Grantor also reserves the right to install, use, or operate other facilities and structures.
10. REMOVAL OR RELOCATION OF FACILITIES. In the event of any development by King County which includes use of the property encumbered by this easement, the Grantee shall upon written request of King County relocate or remove Grantee's facilities at its own expense. Such relocation or removal shall be accomplished within 60 days of the date that the request is received.
11. EMINENT DOMAIN. This easement and limited rights and interest for the construction, operation, maintenance, and repair of Grantee's facilities and appurtenances are subject to the exercise of eminent domain. In the event of an exercise of eminent domain by King County, the value to be attributed to all the rights granted under this easement shall not exceed the actual amount paid to King County in consideration of the granting of this easement.
12. TERMINATION AND ABANDONMENT. In the event that the Grantee abandons or discontinues the use of the easement for the purposes expressed in this document, or if the Grantee violates any provision of this document, the Grantee's easement will terminate.

Upon termination, the Grantee will surrender possession of the easement premises to the Grantor, and title to the easement premises will remain in the Grantor, its successors or assigns, free of any and all claims of the Grantee.