

Portland, Oregon  
**FINANCIAL IMPACT and PUBLIC INVOLVEMENT STATEMENT**  
**For Council Action Items**

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator M. Riddick	2. Telephone No. Ext. 3-0066	3. Bureau/Office/Dept. OCT
4a. To be filed (date): November 30, 2011	4b. Calendar (Check One) Regular <input type="checkbox"/> Consent <input checked="" type="checkbox"/> 4/5ths <input type="checkbox"/>	5. Date Submitted to Commissioner's office and FPD Budget Analyst: November 16, 2011
6a. Financial Impact Section: X Financial impact section completed	6b. Public Involvement Section: X Public involvement section completed	

**1) Legislation Title:**

Extend term of a revocable permit granted to TCG Oregon to build and operate telecommunication facilities within City streets (Ordinance; amend Ordinance No. 173990)

**2) Purpose of the Proposed Legislation:**

Extend the term granted to TCG Oregon to December 31, 2012.

**3) Which area(s) of the city are affected by this Council item? (Check all that apply—areas are based on formal neighborhood coalition boundaries)?**

- |  |                                    |                                    |                                |
|--|------------------------------------|------------------------------------|--------------------------------|
| <input checked="" type="checkbox"/> City-wide/Regional     | <input type="checkbox"/> Northeast | <input type="checkbox"/> Northwest | <input type="checkbox"/> North |
| <input type="checkbox"/> Central Northeast                 | <input type="checkbox"/> Southeast | <input type="checkbox"/> Southwest | <input type="checkbox"/> East  |
| <input type="checkbox"/> Central City                      |                                    |                                    |                                |
| <input type="checkbox"/> Internal City Government Services |                                    |                                    |                                |

**FINANCIAL IMPACT**

**4) Revenue:** Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If so, please identify the source.

The City will continue to receive franchise fees.

**5) Expense:** What are the costs to the City related to this legislation? What is the source of funding for the expense? (Please include costs in the current fiscal year as well as costs in future years. If the action is related to a grant or contract please include the local contribution or match required. If there is a project estimate, please identify the **level of confidence**.)

N/A- cost of processing permit is in OCT budget.

**6) Staffing Requirements:**

- **Will any positions be created, eliminated or re-classified in the current year as a result of this legislation?** *(If new positions are created please include whether they will be part-time, full-time, limited term, or permanent positions. If the position is limited term please indicate the end of the term.)* NO
- **Will positions be created or eliminated in future years as a result of this legislation?**  
NO

*(Complete the following section only if an amendment to the budget is proposed.)*

**7) Change in Appropriations** *(If the accompanying ordinance amends the budget please reflect the dollar amount to be appropriated by this legislation. Include the appropriate cost elements that are to be loaded by accounting. Indicate "new" in Fund Center column if new center needs to be created. Use additional space if needed.)* N/A

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

**[Proceed to Public Involvement Section — REQUIRED as of July 1, 2011]**

PUBLIC INVOLVEMENT

**8) Was public involvement included in the development of this Council item (e.g. ordinance, resolution, or report)? Please check the appropriate box below:**

- YES:** Please proceed to Question #9.  
 **NO:** Please, explain why below; and proceed to Question #10.

This Ordinance is a routine franchising item with no new impact on the community. The Ordinance will extend the term of current franchise while the City and the franchisee negotiate the renewal of the current franchise agreement. All other franchise provisions will remain identical to the franchise previously approved by Council.

**9) If "YES," please answer the following questions:**

**a) What impacts are anticipated in the community from this proposed Council item?**

**b) Which community and business groups, under-represented groups, organizations, external government entities, and other interested parties were involved in this effort, and when and how were they involved?**

**c) How did public involvement shape the outcome of this Council item?**

**d) Who designed and implemented the public involvement related to this Council item?**

**e) Primary contact for more information on this public involvement process (name, title, phone, email):**

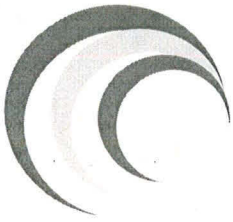
**10) Is any future public involvement anticipated or necessary for this Council item? Please describe why or why not.**

No future public involvement is anticipated or necessary as this Ordinance extends the term of an existing franchise.



BUREAU DIRECTOR (Typed name and signature)

David C. Olson, Director



City of Portland

Office for  
**Community Technology**

Broadband & Communications Technology Policy | Cable Regulation & Consumer Protection | Utility Franchises, Licenses & Wireless

Dan Saltzman, Commissioner


David C. Olson, Director  
1120 SW 5<sup>th</sup> Avenue, Room 1305  
Portland, OR 97204

185056

City Council  
Agenda Item  
Staff Supplemental Report

TO: Commissioner Dan Saltzman

THROUGH: Office for Community Technology

FROM: David C. Olson, Director   
Contact Person: Melvin Riddick, x 3-0066

DATE: November 16, 2011

RE: Extend term of a revocable permit granted to TCG Oregon to build and operate telecommunication facilities within City streets (Ordinance; amend Ordinance No. 173990)

Requested Placement Date: Consent Agenda on November 30, 2011

I. **RECOMMENDATION.** The Office of Cable Communications and Franchise Management recommend that Council approve the extension of the TCG Oregon temporary, revocable permit continuously and without interruption to December 31, 2012.

II. **BACKGROUND.** In June, 2001, Qwest filed a lawsuit against the City of Portland challenging the lawfulness of the City's policies and procedures for right of way management and compensation. In March 2002, the federal district court issued an opinion upholding the City's regulations. Qwest has appealed the district court's decision to the Ninth Circuit. In October 2004, the Ninth circuit affirmed the district court in part and reversed it in part. Qwest Corp. v. City of Portland, 385 F3d (9<sup>th</sup> Cir 2004). The Ninth Circuit remanded the proceeding to the district court for further consideration.

The parties have completed briefing in Qwest's appeal but the Ninth Circuit has not yet scheduled oral argument. No approximate time can be estimated for the Ninth Circuit to hold a hearing and issue a ruling in this appeal. As a result, staff recommends that the Council again extend the temporary, revocable permit to accommodate the uncertain time that it may take to



obtain a final judicial ruling.

Therefore, staff recommends that the franchise should be extended to accommodate both the uncertain time that it may take to obtain final judicial rulings, and to allow the development of a uniform telecommunications franchise.

- III. FINANCIAL IMPACT. None
- IV. LEGAL ISSUES. See above
- V. CONTROVERSIAL ISSUES. See above
- VI. LINK TO CURRENT CITY POLICIES:  
<http://www.portlandonline.com/cable/index.cfm?c=34419&a=112932>
- VII. CITIZEN PARTICIPATION. None
- VIII. OTHER GOVERNMENT PARTICIPATION. None
- IX. IF THIS IS A CONTRACT, DOES CONTRACTOR HAVE A CURRENT BUSINESS LICENSE? yes
- WHAT IS THEIR BUSINESS LICENSE NUMBER? 360155
- IS THEIR ACCOUNT WITH THE CITY CURRENT? yes
- IF NOT, HOW MUCH IS OWING? N/A