

ORDINANCE No. 185158

Consent to change in control of NextG Networks of California, Inc. through a change in control of NextG Networks, Inc. to Crown Castle Solutions Corp., an indirect subsidiary of Crown Castle International Corp. (Ordinance).

The City of Portland ordains:

Section 1. The Council finds:

1. On August 16, 2006, the City of Portland approved Ordinance No. 180377 granting a franchise to NextG Networks of California, Inc. ("NextG") doing business as NextG Networks West for a period of five years.
2. Ordinance No. 180377 established certain terms and conditions regarding NextG's use of the City's streets.
3. Under section 12 of Ordinance No. 180377, NextG shall not assign or transfer the franchise, by any means, without the prior consent of the City as expressed by ordinance.
4. On August 10, 2011, the City of Portland approved Ordinance No. 184798, amending Ordinance No. 180377, to extend the term of the franchise until December 31, 2012.
5. NextG is a wholly owned subsidiary of NextG Networks, Inc.
6. On December 15, 2011, NextG Networks, Inc. entered into an agreement that, upon closing, will result in it being a wholly owned subsidiary of Crown Castle Solutions Corp., which in turn is a wholly owned indirect subsidiary of Crown Castle International Corp.
7. NextG has notified the City of the proposed transfer of control and ownership of NextG and has asked the City to consent to the proposed change.
8. Both NextG and NextG Networks, Inc. will survive the merger, and NextG will continue to own and operate any telecommunications facilities that are placed within the City. NextG will continue to be the Grantee under the franchise.
9. Staff has reviewed available information and determined that Crown Castle International Corp. and its subsidiaries appear to have the technical, legal and financial ability to meet the obligations of the franchise.
10. Staff recommends that the Council provide its consent to the proposed transfer of control and ownership of NextG.

NOW, THEREFORE, the Council directs:

- a. Pursuant to Portland City Charter Section 10-216 and Section 12 of Ordinance No. 180377, consent is hereby given to the proposed transfer of control and ownership of NextG.
- b. Upon closing of the merger transaction, NextG will continue to be responsible for performing, complying with and assuming all the covenants, duties, obligations and liabilities under the franchise. The City may request additional documentation for clarification of any questions regarding assumption of the agreement obligations and responsibilities for future performance of such obligations and the control and ownership of NextG.
- c. Within 30 days after this ordinance becomes effective, NextG shall file in the Office of the Auditor of the City of Portland a written acceptance of this ordinance meeting the approval of the City Attorney. Such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in this ordinance and Ordinance No. 180377. A failure on the part of NextG to file such written acceptance within such time shall be deemed a rejection and abandonment, and this ordinance shall thereupon be null and void.
- d. In the event the transaction which is the subject of this ordinance is not consummated or does not reach final closure for any reason, or in the event such closure is reached on terms substantially and materially different to the terms as previously described in the information provided to the City by NextG and relied upon by the City, then this ordinance, together with the written acceptance provided hereunder shall be null and void. If the closure is upon terms which are substantially and materially different, NextG shall resubmit a request for the City's consent to transfer of the subject franchise, in order to be in compliance with the terms and conditions of the franchise.

Passed by the Council:

FEB 22 2012

Commissioner Dan Saltzman

Prepared by: JLi/BWalters

Date Prepared: February 2, 2012

LaVonne Griffin-Valade

Auditor of the City of Portland

By

Gayla Jennings

Deputy

175

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Agenda No.
ORDINANCE NO. 185158
Title

Consent to change in control of NextG Networks of California, Inc. through a change in control of NextG Networks, Inc. to Crown Castle Solutions Corp., an indirect subsidiary of Crown Castle International Corp. (Ordinance).

<p>INTRODUCED BY Commissioner/Auditor: Commissioner Dan Saltzman</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>[Signature]</i></p> <p>Position 4/Safety - Leonard</p> <p>BUREAU APPROVAL</p> <p>Bureau: OCT Bureau Head: David C. Olson <i>[Signature]</i></p> <p>Prepared by: J. Li Date Prepared: February 2, 2012</p> <p>Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date February 15, 2012</p> <p>City Attorney Approval <i>[Signature]</i></p>	<p>CLERK USE: DATE FILED FEB 10 2012</p> <p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p> <p>FEB 15 2012 PASSED TO SECOND READING FEB 22 2012 9:30 A.M.</p>
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AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input checked="" type="checkbox"/></p>
<p>REGULAR <input type="checkbox"/></p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	