

ORDINANCE No. 185747

Extend term of a franchise granted to 360networks (USA), inc. to build and operate telecommunication facilities within City streets (Ordinance; amend Ordinance No. 172864)

The City of Portland ordains:

Section 1. The Council finds:

1. On November 12, 1998, the City Council approved Ordinance No. 172864, granting a franchise to Pacific Fiber Link, LLC, to use designated City streets to provide telecommunications services as a point-to-point telecommunications provider.
2. 360networks (USA), inc. ("360networks") claims to act as a successor to Pacific Fiber Link, with common corporate affiliates.
3. On January 7, 2009, the Council adopted Ordinance No. 182462, amending and extending the telecommunications franchise granted to Pacific Fiber Link, LLC.
4. On November 30, 2011, the Council adopted Ordinance No. 185019 to extend the term of the telecommunications franchise granted under Ordinance No. 172864, continuously and without interruption, through December 31, 2012.
5. 360networks (USA), inc. has indicated that it wants to continue to use City streets for its telecommunications facilities, and to obtain permits to perform work in the City streets.
6. On October 26, 2011, the City Council adopted non-emergency Ordinance No. 184957, amending Title 17 of the Portland City Code. Among other matters, the ordinance updated, clarified and reorganized various code sections. The City is implementing various aspects of the revised code provisions, and City staff has begun negotiating a renewal agreement, including revised standardized franchise language to address the code amendments. Although franchise negotiations for a renewal agreement are in progress, parties have not agreed on all terms. City staff recommends that the City Council extend the existing franchise to allow time for parties to complete negotiations for a new agreement and to formally complete the formal Portland City Charter procedure for proposed franchises, which can take up to four months or more from the date of the required initial publication.

NOW, THEREFORE, the Council directs:

- a. Ordinance Number 172864 is hereby amended to extend the term of the Franchise, continuously and without interruption, through December 31, 2014.
- b. All other terms and conditions of the Franchise shall remain the same and unchanged.
- c. On or before thirty (30) days after this ordinance becomes effective, 360networks (USA), inc. shall file in the Office of the Auditor of the City of Portland a written acceptance of this ordinance, executed by a duly authorized officer of 360networks (USA), inc., meeting the approval of the City Attorney. Any failure on the part of 360networks (USA), inc. to file such written acceptance within such time shall be deemed an abandonment and rejection of this ordinance, and this ordinance shall thereupon be null and void. Such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms contained in this ordinance.

Passed by the Council: NOV 28 2012

Mayor Sam Adams
Prepared by: MRiddick/BEWalters
October 26, 2012

LaVonne Griffin-Valade
Auditor of the City of Portland

By:



Deputy

Agenda No.
ORDINANCE NO. 185747
Title

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INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>NOV 08 2012</u>
COMMISSIONER APPROVAL	LaVonne Griffin-Valade Auditor of the City of Portland
Mayor—Finance and Administration - Adams	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
BUREAU APPROVAL	
CAO: Jack D. Graham	
Bureau: Revenue	
Bureau Head: Thomas W. Lannom	
Prepared by: Melvin Riddick Date Prepared: October 29, 2012	
Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date November 14, 2012	
City Attorney Approval <i>Benjamin Walters</i>	

ACTION TAKEN:

By: *[Signature]* Deputy

NOV 14 2012 PASSED TO SECOND READING NOV 28 2012 9:30 A.M.

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____
Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input checked="" type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

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	✓	