

ORDINANCE No. 185774

Extend term of OnFiber Communications, Inc., franchise to use designated City streets to provide telecommunications services (Ordinance; amend Ordinance No. 175793)

The City of Portland ordains:

Section 1. The Council finds:

1. On July 18, 2001, the City of Portland granted a franchise to Portland General Distribution LLC, doing business as Portland General Broadband ("Portland General Broadband"), to construct, operate, and maintain a telecommunications system with all necessary facilities, in the city's streets for a period of ten years. Ordinance No. 175793, passed July 18, 2001, effective September 16, 2001.
2. OnFiber Communications, Inc. became a successor to Portland General Broadband and filed an acceptance of the franchise grant with the City of Portland in 2004.
3. 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 No. 175793 is hereby amended to extend the term of the franchise continuously and without interruption, through February 14, 2015.
- 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, OnFiber Communications, 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 OnFiber Communications, Inc., meeting the approval of the City Attorney. Any failure on the part of OnFiber Communications, 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:

DEC 05 2012

LaVonne Griffin-Valade
Auditor of the City of Portland

By:



Deputy

Mayor Sam Adams
Prepared by: MRiddick/BEWalters
November 3, 2012

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✓140

Agenda No. **185774**
ORDINANCE NO.
Title

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INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>NOV 20 2012</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams <i>[Signature]</i>	LaVonne Griffin-Valade Auditor of the City of Portland
Position 1/Utilities - Fritz	By: <u><i>[Signature]</i></u> Deputy
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
BUREAU APPROVAL CAO: Jack D. Graham <i>[Signature]</i> Bureau: Revenue Bureau Head: Thomas W. Lannom	ACTION TAKEN: NOV 28 2012 PASSED TO SECOND READING DEC 05 2012 9:30 A.M.
Prepared by: MRiddick/JLI Date Prepared: November 7, 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 28, 2012	
City Attorney Approval <i>[Signature]</i>	

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	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Leonard	✓	
Adams	✓	