

ORDINANCE No. 185934

Consent to franchise transfer from TCG Oregon to Teleport Communications America, LLC
(Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. On December 8, 1999, the City Council granted a temporary, revocable, permit to TCG Oregon to build and operate telecommunications facilities within the City's streets. Ordinance No. 173990. The franchise became effective December 8, 1999.
2. By Ordinance No. 175079, the City extended the term of the permit to October 1, 2001. By Ordinance No. 175985, the City extended the term of the permit to October 1, 2002.
3. Due to intervening circumstances of litigation and administrative complications, the Council subsequently extended the TCG permit numerous times. Most recently on December 5, 2012 the Council extended the term of the permit until January 21, 2015 by Ordinance No. 185772.
4. Under Section o of Ordinance No. 173990, TCG Oregon may not sell, lease, mortgage, assign or otherwise transfer the permit, by any means, "without the prior consent of the City as expressed by ordinance"
5. Effective January 1, 2013, as a result of a merger agreement, TCG Oregon merged with Teleport Communications America, LLC. Teleport Communications America, LLC, a Delaware limited liability company, was the surviving and legal operating entity.
6. Staff recommends that the Council Ordinance No. 173990 be transferred within the City's records to Teleport Communications America, LLC as the surviving entity of the TCG Oregon merger.

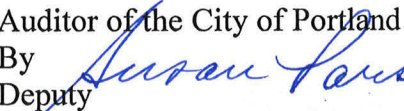
NOW, THEREFORE, the Council directs:

- a. Pursuant to Portland City Charter Section 10-216 and Section o of Ordinance No. 173990, consent is hereby given to the transfer of the franchise to Teleport Communications America, LLC.
- b. Upon closing of the merger transaction, Teleport Communications America, LLC will be responsible for performing, complying with and assuming all of the covenants, duties, obligations and liabilities under the permit, including the provision of insurance and bonds required under the revocable permit. In response to the written notice, the City may request additional documentation for

clarification of any questions regarding assumption of franchise obligations and responsibilities for future performance of such obligations.

- c. Within 30 days after this ordinance becomes effective, Teleport Communications America, LLC 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. 173990. A failure on the part of Teleport Communications America, LLC to file such written acceptance within such time shall be deemed a rejection and abandonment, and this ordinance shall thereupon be null and void.

Passed by Council, MAR 20 2013
Mayor Charlie Hales
Prepared by Li/Walters
January 22, 2013

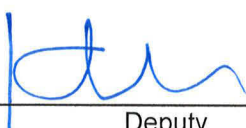
LaVonne Griffin-Valade
Auditor of the City of Portland
By 
Deputy

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Agenda No. **185934**
ORDINANCE NO.
 Title

Consent to franchise transfer from TCG Oregon to Teleport Communications America, LLC
 (Ordinance; ~~Transfer Ordinance No. 173990~~)

<p>INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales</p>	<p>CLERK USE: DATE FILED <u>MAR 08 2013</u></p>
<p>COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick</p>	<p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u></u> Deputy</p>
<p>BUREAU APPROVAL CAO: Jack D. Graham Bureau: Revenue Bureau Head: Thomas W. Lannom</p>	<p>ACTION TAKEN: MAR 18 2013 PASSED TO SECOND READING MAR 20 2013 9:30 A.M.</p>
<p>Prepared by: JL Date Prepared: March 13, 2013</p>	
<p>Financial Impact & Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <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</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, dump plan, charter</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/> 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"/> 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. Novick	4. Novick ✓	
Hales	Hales ✓	