

ORDINANCE No. 186432

Consent to revocable permit transfer from FSH Communications, LLC to WiMacTel, Inc. for payphone facilities (Ordinance; Transfer Ordinance No. 185650)

The City of Portland ordains:

Section 1. The Council finds:

1. By Ordinance No. 185650, effective October 26, 2012, the City of Portland granted FSH Communications a revocable permit to construct, operate and maintain public telephones on City streets for a period of three years.
2. Section 2.m of the revocable permit states that the permit shall not be assigned or transferred, except to an affiliate of the Permittee, without the prior written consent of the City as expressed by ordinance.
3. FSH Communications entered into an agreement with WiMacTel, Inc. (WiMacTel) under which WiMacTel will acquire the pay phone assets of FSH Communications, including its Portland pay phone assets and accounts. The acquisition took place in November 2013.
4. The two companies have asked that the Council provide consent to the transfer of the existing revocable permit and pay phone assets on the City streets to WiMacTel.
5. Staff has reviewed available information and determined that WiMacTel appears to have the technical, legal and financial ability to meet the obligations of the revocable permit.
6. Staff recommends that the Council provide its consent to the proposed transfer of Ordinance No. 185650 to WiMacTel.

NOW, THEREFORE, the Council directs:

- a. Pursuant to Section 2.m of Ordinance No. 185650, consent is hereby given to the transfer of the revocable permit and pay phone assets on the City streets to WiMacTel.
- b. Effective upon the closing of the acquisition, WiMacTel will be responsible for performing, complying with and assuming all of the covenants, duties, obligations and liabilities under Ordinance No. 185650, including the provision of insurance and bonds required under the existing revocable permit. In response to the written notice of proposed transfer received by the City, the City may request additional documentation for clarification of any questions regarding assumption of the revocable permit obligations and responsibilities for future performance of such obligations. Within 30 days after the passage of this Ordinance, WiMacTel shall

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provide certificates of insurance and bonds as required under Ordinance No. 185650.

- c. Within 30 days the passage of this Ordinance, WiMacTel 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. 185650. A failure on the part of WiMacTel to file such written acceptance within such time shall be deemed a rejection and abandonment, and this ordinance shall thereupon be null and void.

MADE BY THE CITY OF PORTLAND
JAN 29 2014

Passed by Council,
Mayor Charlie Hales
Prepared by Li/Walters
November 26, 2013

LaVonne Griffin-Valade
Auditor of the City of Portland
By *Rusan Pearson*
Deputy

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Agenda No. **186432**
ORDINANCE NO.
Title

Consent to transfer revocable permit from FSH Communications, LLC to WiMacTel, Inc. for payphone facilities (Ordinance; Transfer Ordinance No. 185650)

<p>INTRODUCED BY Commissioner/Auditor: Mayor Charlie Hales</p> <p>COMMISSIONER APPROVAL <i>[Signature]</i> Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p> <p>BUREAU APPROVAL Bureau: Revenue Bureau OMF CAO: Fred Miller <i>Fred Miller</i> Bureau Head: Thomas W. Lannom <i>Thomas Lannom</i></p> <p>Prepared by: Jennifer Li Date Prepared: 12/17/2013</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>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i></p> <p>Council Meeting Date January 22, 2014</p>	<p>CLERK USE: DATE FILED <u>JAN 17 2014</u></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: <i>[Signature]</i></p> <p style="text-align: center;">JAN 22 2014 PASSED TO SECOND READING JAN 29 2014 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 <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Novick	4. Novick <input checked="" type="checkbox"/>	
Hales	Hales <input checked="" type="checkbox"/>	