

ORDINANCE No. 188094

Extend term of a franchise granted to XO Communications Services, LLC to build and operate telecommunications facilities within City streets (Ordinance; amend Ordinance No. 175062)

The City of Portland ordains:

Section 1. The Council finds:

1. In November 2000, the Council granted a franchise to NEXTLINK Oregon, Inc., a Washington corporation qualified to do business in Oregon, and to its successors and assigns, as approved by the City, to use the City streets to provide telecommunications services. Ordinance No. 175062.
2. XO Communications Services, LLC became a successor to NEXTLINK Oregon, Inc. and filed an acceptance of the franchise grant with the Office for Community Technology, Revenue Division, Bureau of Revenue and Financial Services, formerly known as the Cable Office in 2001. XO Communications Services, LLC became the ultimate successor to the franchise. XO Communications Services, LLC is a limited liability company registered in Delaware and qualified to do business in Oregon ("XO").
3. The Council has previously extended the term of the franchise ordinance. Most recently, in December, 2015, the Council extended the term of the XO franchise until December 31, 2016. Ordinance No. 187502.
4. City staff is currently working on negotiating a renewal franchise with XO, including revised standardized franchise language. Although franchise negotiations for a renewal agreement are in progress, the parties have not reached agreement on all terms. City staff recommends that the Council extend the existing franchise to allow time for parties to complete negotiations for a new agreement and to formally complete the 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. 175062 is amended to extend the term of the franchise, continuously and without interruption, through December 31, 2018.
- b. All other terms and conditions of the franchise shall remain the same and unchanged.

- c. On or before the thirtieth (30th) day after this ordinance becomes effective, XO Communications Services, LLC shall file in the Office of the Auditor of the City of Portland a written acceptance of this ordinance, executed by a duly authorized representative of XO Communications Services, LLC, meeting the approval of the City Attorney. Any failure on the part of XO Communications Services, LLC to file such written acceptance within such time shall be deemed an abandonment and rejection of this ordinance. 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 17 2016

Mary Hull Caballero
Auditor of the City of Portland

By: *Gayla Jennings*

Mayor Charlie Hales
Prepared by: MRiddick/BEWalters
October 14, 2016

Deputy

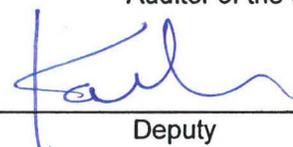
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Agenda No. **188094**

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Title

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INTRODUCED BY Commissioner/Auditor: Mayor Hales	CLERK USE: DATE FILED NOV 01 2016
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales	Mary Hull Caballero Auditor of the City of Portland
Position 1/Utilities - Fritz	By:  Deputy
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick	
BUREAU APPROVAL Bureau: OMF/BRFS, Revenue CAO: Fred Miller CFO, Bureau Head: Kenneth L. Rust Division Head: Thomas W. Lannom	ACTION TAKEN:
Prepared by: Melvin Riddick Date Prepared: October 17, 2016	NOV 09 2016 PASSED TO SECOND READING NOV 16 2016 9:30 A.M.
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	NOV 16 2016 CONTINUED TO NOV 17 2016 2 P.M.
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date: November 9, 2016	

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. Novick	✓	
Hales	✓	