

185749

ORDINANCE No.

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

The City of Portland ordains:

Section 1. The Council finds:

1. In November 2000, the City 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 Oregon Inc. became a successor to NEXTLINK Oregon, Inc and filed an acceptance of the franchise grant with the Cable Office in 2001. XO Communications Services, Inc. became the ultimate successor to the franchise. XO Communications Services, Inc. is a Delaware corporation qualified to do business in Oregon ("XO").
3. The City Council previously extended the term of this franchise ordinance until December 31, 2012. Ordinance No. 185025.
4. 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. 175062 is hereby amended to extend the term of the franchise, continuously and without interruption, to December 31, 2014.
- b. All other terms and conditions of Ordinance No. 175062 shall remain the same and unchanged.

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

Passed by the Council:

NOV 28 2012

LaVonne Griffin-Valade
Auditor of the City of Portland

By:



Deputy

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

Agenda No. **185749**
ORDINANCE NO.
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	<i>[Signature]</i>
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	ACTION TAKEN:
CAO: Jack D. Graham <i>[Signature]</i>	<i>[Signature]</i>
Bureau: Revenue Bureau Head: Thomas W. Lannom	
Prepared by: Melvin Riddick Date Prepared: October 29, 2012	NOV 14 2012 PASSED TO SECOND READING NOV 28 2012 9:30 A.M.
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>[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	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	