

CLARK COUNTY
TELECOMMUNICATIONS UTILITY SYSTEM
FRANCHISE AGREEMENT
GRANTED TO
TELECOMMUNICATUIONS OF NEVADA, LLC d/b/a
XO COMMUNICATIONS, LLC

THIS FRANCHISE is granted this 2nd day of June, 2009, by Clark County, Nevada, a political subdivision of the State of Nevada, acting by and through its Board of County Commissioners which is its governing body (hereinafter called "County"), to Telecommunications of Nevada, LLC d/b/a XO Communications (hereafter called "Franchisee"), authorized by the Public Utilities Commission of Nevada to do business in the State of Nevada.

WITNESSETH:

WHEREAS, the Franchisee, a foreign limited liability company organized and existing under and by virtue of the laws of the State of Delaware, and duly qualified to transact business within the State of Nevada, is engaged in the business of operating a telecommunications utility system to provide subscription service, as defined by Clark County Code;

WHEREAS, the County is authorized pursuant to Nevada Revised Statutes Chapter 709, to grant a franchise to install, maintain and operate a telecommunications utility system and all necessary or proper appliances used in connection therewith or appurtenant thereto in certain portions of the unincorporated area of Clark County, Nevada, as defined by Clark County Code, which requires the use of County's rights-of-way; and

WHEREAS, the Franchisee hereby attests that the information submitted in the Franchisee's application to the County to obtain this Telecommunications Utility System Franchise, attached hereto as Exhibit A and made a part hereof, is true and correct.

NOW, THEREFORE, in consideration of the premises and of the performance by the Franchisee of the requirements hereinafter set forth, and subject to

the following terms and conditions, the County hereby grants to the Franchisee this Telecommunications Utility System Franchise.

TERMS AND CONDITIONS:

1. DEFINITIONS

Definitions of terms in this Franchise Agreement shall be the same as those definitions listed in Clark County Code Chapter 5.01, as amended from time to time.

2. FRANCHISE AGREEMENT DURATION, CONDITIONS, EXTENSION

- A. This Franchise shall be non-exclusive and shall be in force and effect from the date first written above until the 2nd day of June, 2019.
- B. All provisions of Titles 5, 6 and 30 of the Clark County Code, as amended from time to time, and all provisions of this Franchise Agreement shall be binding upon the Franchisee, its successors or assignees. In the event of any conflict between any provisions in Titles 5, 6 or 30 of the Clark County Code, as amended from time to time, and any provisions of this Franchise Agreement, the Code provision shall control.
- C. The Franchisee shall not permit use by other persons of its facilities located in the County rights-of-way, including but not limited to the use by other persons who are required to obtain a business license, Franchise or Rights-of-Way License Agreement from the County for such use, unless and until the other persons obtain such licenses or franchises. The Franchisee shall not permit another person to install its own facilities in, on, under, along or above the Franchisee's facilities.
- D. The Franchisee is hereby granted, during the term of this Agreement, a Franchise to install, operate and maintain its facilities in rights-of-way in unincorporated Clark County, as identified in the map attached hereto, labeled Exhibit B and made a part hereof, and pursuant to Clark County Code Titles 5, 6 and 30. On the effective date of this Franchise Agreement, the Franchisee shall provide the County with a written description of the locations of facilities the Franchisee will install in County rights-of-way during the first year of this Franchise Agreement of which it is aware.
- E. The Franchisee may expand this Franchise Agreement to install, operate and maintain its facilities in the County's rights-of-way beyond the

original geographic area identified in this Agreement only by obtaining approval of an amended Franchise Agreement from the County. The County Commission may grant, with or without conditions, or deny such amendment in its sole discretion.

In the event that an amendment to this Franchise Agreement is approved by the County Commission, such amendment shall be subject to all the terms and conditions of the Franchise Agreement and the terms and conditions of any amended agreement, and Titles 5, 6 and 30 of the Clark County Code, as amended from time to time.

- F. This Franchise Agreement may be extended beyond its original expiration date by the Franchisee under the terms and conditions of Clark County Code Chapter 5.01, and as amended from time to time. Failure to extend this Franchise Agreement shall automatically terminate this Agreement on its expiration date.
- G. This Franchise Agreement does not grant the Franchisee permission to offer subscription Video Services in County, unless and until the Franchisee has applied for and is granted a separate Certificate of Authority granted by the Nevada Secretary of State in accordance with Clark County Code Titles 5, 6 and Nevada Revised Statutes Chapter 711 authorizing the Franchisee to provide video services within unincorporated areas of Clark County.
- H. The Franchisee acknowledges that this Franchise Agreement is for installation of facilities in County rights-of-way only, and that installation in, on, under, along or above other County property may be permitted only through separate agreement and payment of rental fees.
- I. The Franchisee is responsible for the maintenance and upkeep of any of the Franchisee's above surface facilities located immediately adjacent to the rights-of-way granted by this Agreement.

3. FRANCHISEE'S WORK IN COUNTY RIGHTS-OF-WAY

The Franchisee shall, in the installation, construction, operation, maintenance, reconstruction, removal, relocation or abandonment of its facilities in the County rights-of-way, comply with all applicable provisions of Clark County Titles 5, 6, and the improvement standards adopted in Title 30, as set forth and hereafter amended and the "Uniform Standard Specifications for Off-Site Construction, Clark County Area" (latest edition) as adopted by the County Commission.

4. FRANCHISE PAYMENTS AND FEES

The Franchisee shall pay all payments and fees assessed in accordance with its County business license(s) pursuant to Clark County Code Title 6, as amended from time to time.

5. FRANCHISE REPORTING

Each year during the term of the Franchise Agreement, the Franchisee shall submit a written report to the County's Director of Business License as required by Clark County Code Section 5.01.110.

6. REVOCATION AND PENALTIES

- A. After providing notice and an opportunity for the Franchisee to be heard and a reasonable opportunity to cure, the County Commission may impose fines or penalties in an amount deemed appropriate by the County Commission, but not exceeding the amount of the security deposit established in Section 9 of this Franchise Agreement, upon the Franchisee if the County Commission finds that the Franchisee has failed to comply with the provisions of this Franchise Agreement or the applicable sections of Clark County Code Titles 5, 6 or 30. Any such fines or penalties shall be due within thirty (30) days of written notification by the County, made payable to the County Treasurer, and delivered to the Director of Business License at the County's address indicated in Section 13 of this Franchise Agreement. A late charge of five percent (5%) of the fine or penalty imposed shall be assessed if the fine or penalty is not paid within thirty (30) days of the written notification.

If a fine or penalty which has been imposed by the County Commission is not paid within thirty (30) days from the date of written notification, Franchisee hereby grants the County authorization to deduct that amount of the fine or penalty plus late charges, if any, from the security deposit provided for such purposes pursuant to Section 9 of this Franchise Agreement and the applicable section of Clark County Code Titles 5 and 6. If at any time the Director of Business License has drawn upon such security deposit, the Franchisee shall within thirty (30) days of notification from the Director of Business License replenish such security deposit to the original minimum amount established in Section 9 of this Franchise Agreement.

- B. In addition to the grounds for revocation set forth in the applicable sections of Clark County Code Titles 5 and 6, this Franchise Agreement may be revoked if, after providing notice and an opportunity for the Franchisee to be heard, and a reasonable opportunity to cure, the County

Commission finds that the Franchisee failed to make payment of fines or penalties due under this Franchise Agreement or to comply with the provisions of this Franchise Agreement.

7. TRANSFERS AND ASSIGNMENTS

The terms and conditions for transfer and assignment of franchises pursuant to the applicable sections of Clark County Code 5.01, and as amended from time to time, shall apply to this Franchise Agreement.

8. INDEMNIFICATION

The Franchisee shall indemnify, save harmless and defend the County, its officers and employees in accordance with the indemnification provisions of the applicable sections of Clark County Code Chapter 5.01.

9. INSURANCE AND SECURITY PERFORMANCE

- A. The Franchisee shall secure, maintain and provide certification of all insurance coverages in the amounts, kinds and form required pursuant to the applicable sections of Clark County Code Chapter 5.01 prior to commencement of any work in County's rights-of-way.
- B. The Franchisee shall provide to the Director of Business License security for performance pursuant to the applicable sections of Clark County Code Chapter 5.01 in the amount of two hundred fifty thousand dollars (\$250,000). The Franchisee hereby grants the County authorization to deduct assessed fines or penalties and late charges, if any, pursuant to Section 6 of this Franchise Agreement and the applicable sections of Clark County Code Chapter 5.01, from such security deposit.

10. RIGHTS RESERVED TO COUNTY

The County does hereby expressly reserve its rights, powers and authorities pursuant to the applicable section of Clark County Code Title 5, as amended from time to time. The County expressly reserves the right to amend this Franchise Agreement by amendments to the Clark County Code to the maximum extent permitted by law.

11. SEVERABILITY

If any provision, section, paragraph, sentence, clause or phrase of this Franchise Agreement is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this Franchise Agreement. It is the intent of the Franchisee in requesting this Franchise Agreement and the County Commission in approving this Franchise Agreement that no portion or provision thereof shall become inoperative or fail by reason of any invalidity or unconstitutionality of any other portion or provision, and to this end all provisions of this Franchise Agreement are declared to be severable.

12. GIFTS

No officer or employee of the Franchisee shall offer to any officer or employee of the County, either directly or indirectly, any rebate, contribution, gift, money, service without charge or other thing of value whatsoever, except where given for the use and benefit of the County.

13. NOTICE

All notices shall be sent to the County or Franchisee at the addresses indicated below. The Franchisee shall notify the County's Director of Business License of any change of address within ten (10) working days of such occurrence. Failure to provide notification, and any resulting delay in receipt of notice, shall not excuse the Franchisee from any obligation imposed by this Franchise Agreement, nor shall it serve as cause for reduction or removal of any restriction, fine or penalty imposed by the County.

COUNTY:
Director of Business License
Clark County
500 S. Grand Central Pkwy., 3rd Floor
PO Box 551810
Las Vegas, NV 89155-1810

FRANCHISEE:
Gegi Leeger
Director – Regulatory Contracts
XO Communications
13865 Sunrise Valley Drive
Herndon, VA 20171

14. MAPS

Franchisee shall maintain on file maps and operational data pertaining to its operations in the rights-of-way, which the County may inspect at any time during

normal business hours upon reasonable notice to Franchisee. Upon request of the County, Franchisee shall furnish to the Public Works Director, as soon as practical and without charge, current maps either in a hard-copy printed form or in the County's geographical information system format or compatible database, showing the location and dimension of any existing and proposed facilities, but not other proprietary information, used in operating Franchisee's facilities in the rights-of-way.

IN WITNESS WHEREOF the parties hereto have set their hands the day and year first above written.

CLARK COUNTY BOARD OF COMMISSIONERS


By


RORY REID, Chairman

ATTEST


SHIRLEY B. PARRAGUIRRE, Clerk

APPROVED AS TO FORM:
DISTRICT ATTORNEY


By: MARK E. WOOD
Deputy District Attorney

Telecommunications of Nevada, LLC d/b/a
XO Communications

By:

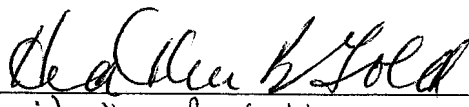

Name: Heather B. Gold
Title: SUP - External Affairs

EXHIBIT A



13885 Sunrise Valley Drive
Herndon, VA 20171

April 27, 2009

Mr. Michael Harwell
Franchise Manager
Clark County Business License Department
500 S. Grand Central Parkway, 3rd Floor
Las Vegas, NV 89106

Re: Request for a Successor Franchise Agreement

Dear Mr. Harwell:

Telecommunications of Nevada, LCC d/b/a XO Communications, LCC ("XO") hereby formally requests to enter into a successor Clark County Telecommunications Utility System Franchise Agreement as our current agreement expires on July 7, 2009. XO requests that the franchise be issued for a ten (10) year period, for all right-of-way in unincorporated Clark County. XO has no other agreements regarding use of the Clark County rights-of-way. Neither XO nor its affiliates has had a right-of-way franchise agreement declined, suspended or revoked.

To facilitate this request, XO Communications provides the following information:

1. Certificate of Public Convenience and Necessity for Telecommunications of Nevada, LCC d/b/a XO Communications, LCC (Exhibit A).
2. Certificate of formation issued by the state of Delaware for Telecommunications of Nevada, LCC (Exhibit B).
3. XO corporate flow chart

XO will provide a map of XO's facilities in the ROW as required by NRS 709.060 in a separate correspondence. Furthermore, XO understands that notice of XO's application will be published at our expense pursuant to NRS 709.070. Please advise me of the amount of the publication fee so that XO can send appropriate compensation.

If you have any questions or require further information, please contact me on 703-547-2109 or at Gegi.Leeger@xo.com. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink that reads 'Gegi Leeger'.

Gegi Leeger
Director – Regulatory Contracts

PUBLIC UTILITIES COMMISSION OF NEVADA

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Telecommunications of Nevada, LLC d/b/a XO Communications, LLC

CPC 2121 Sub 2
(supersedes and replaces
CPC 2121 Sub 1)
Docket No. 08-02029

The Public Utilities Commission of Nevada ("Commission") hereby grants Telecommunications of Nevada, LLC d/b/a XO Communications, LLC the authority to operate as a competitive supplier of telecommunication service within the State of Nevada, pursuant to Assembly Bill 518 passed by the Nevada Legislature in 2007.

Telecommunications of Nevada, LLC d/b/a XO Communications, LLC is hereby granted this Certificate of Public Convenience and Necessity as evidence of its authority to operate as a competitive supplier of telecommunication service within the State of Nevada. As a condition of this Certificate, Telecommunications of Nevada, LLC d/b/a XO Communications, LLC shall render reasonably continuous and adequate service to the public within the State of Nevada. Failure to comply with all applicable provisions of the Nevada Revised Statutes; all applicable rules, regulations and orders of the Commission; and any applicable terms, conditions and limitations pertaining to the privileges granted in this Certificate shall comprise sufficient grounds for the suspension or revocation of this Certificate. Nothing contained in this Certificate shall be construed to create a franchise or to constitute the grant of an irrevocable Certificate.

This Certificate of Public Convenience and Necessity supersedes and replaces, in all respects, CPC 2121 Sub 1. CPC 2121 Sub 1 shall be, and the same is hereby, cancelled.

This Certificate of Public Convenience and Necessity shall not be conveyed or transferred without the Commission's prior approval.

Any errors in the drafting of this Certificate of Public Convenience and Necessity may be corrected without further proceedings by the Commission.

By the Commission,

Jo Ann Kelly

JO ANN KELLY, Chairman

Attest:

Crystal Jackson

CRYSTAL JACKSON, Commission Secretary

Dated: Carson City, Nevada

4-3-08

(SEAL)

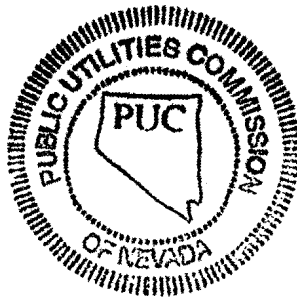
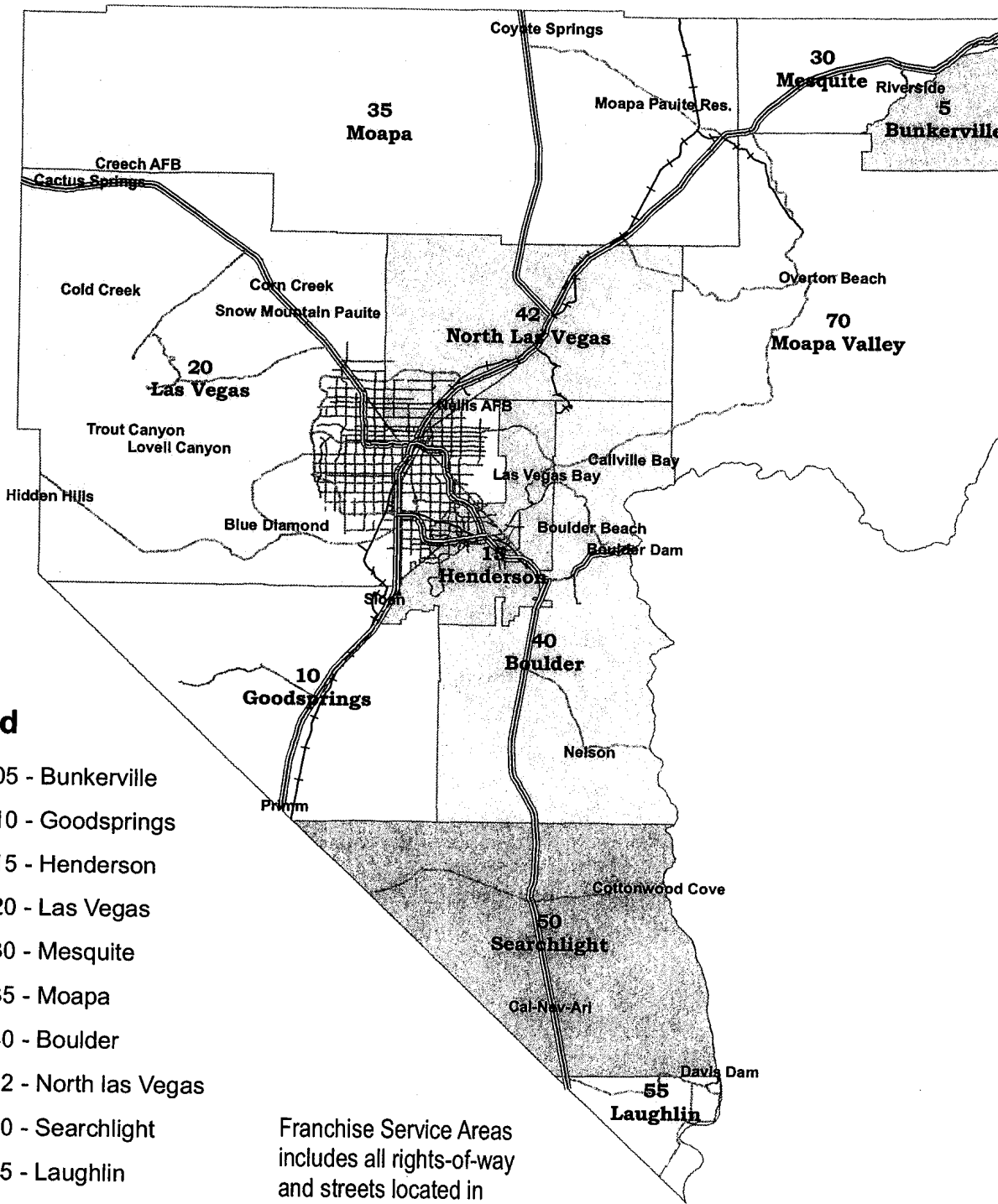













Exhibit B



Legend

-  005 - Bunkerville
-  010 - Goodsprings
-  015 - Henderson
-  020 - Las Vegas
-  030 - Mesquite
-  035 - Moapa
-  040 - Boulder
-  042 - North Las Vegas
-  050 - Searchlight
-  055 - Laughlin
-  070 - Moapa Valley

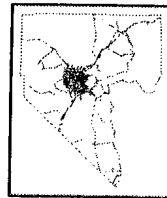
Franchise Service Areas includes all rights-of-way and streets located in Unincorporated Clark County.

1 inch equals 87,718 feet
Date: August 4, 2008



Exhibit B

Clark County, Nevada



Vicinity Map - No Scale

This information is for display purposes only. No liability is assumed as to the accuracy of the data delineated herein.

DISCLOSURE OF OWNERSHIP/PRINCIPALS

Type of Business

Individual
 Partnership
 Limited Liability Company
 Corporation
 Trust
 Other

Business Name: Telecommunications of Nevada, LLC d/b/a XO Communications

(Include d.b.a., if applicable)

Business Address: 13865 Sunrise Valley Drive
Herndon, VA 20171

Business Telephone: 703-547-2109

Disclosure of Ownership and Principals:

All non-publicly traded corporate business entities must list the names of individuals holding more than five percent (5%) ownership or financial interest in the business entity appearing before the Board. "Business entities" include all business associations organized under or governed by Title 7 of the Nevada Revised Statutes, including but not limited to private corporations, close corporations, foreign corporations, limited liability companies, partnerships, limited partnerships, and professional corporations. Corporate entities shall list all Corporate Officers and Board of Directors in lieu of disclosing the names of individuals with ownership or financial interest. The disclosure requirement, as applied to land-use transactions, extends to the applicant and the landowner(s).

Full Name	Title
<u>XO Nevada Merger Sub, Inc. (50% Ownership)</u>	
<u>XO Communications, LLC (50% Ownership)</u>	
_____	_____
_____	_____
_____	_____
_____	_____

I certify under penalty of perjury, that all of the information provided herein is current, complete, and accurate. I also understand that the Board will not take action on land-use approvals, contract approvals, land sales, leases or exchanges without the completed disclosure form.

Heather B. Gold
 Signature / Capacity

Heather B. Gold
 Print Name

May 13, 2009
 Date

TELECOMMUNICATIONS OF NEVADA, LLC dba XO COMMUNICATIONS, LLC
TELECOMMUNICATIONS UTILITY SYSTEM
FRANCHISE EXTENSION AGREEMENT

WHEREAS, on January 4, 1999, the Clark County, Nevada Board of County Commissioners awarded a 10-year franchise to Telecommunications of Nevada, LLC dba Nextlink Nevada and subsequently changed its dba name to XO Communications, LLC ("XO Communications") to construct, operate and maintain a telecommunications utility system to provide subscription service within unincorporated areas of Clark County, under the conditions and requirements defined in Clark County Code, as evidenced by a telecommunications utility system franchise agreement dated the same date (the "Franchise Agreement"); and

WHEREAS, Clark County and XO Communications desire to extend the original Franchise Agreement for a period not to exceed six months and three days under the same terms and conditions as the existing Franchise Agreement to finalize the proposed renewal agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The existing Franchise Agreement is extended beginning January 4, 2009, for a period not to exceed six months and three days until July 7, 2009, or until a new franchise agreement is granted to XO Communications by the Clark County Board of County Commissioners, whichever occurs first (the "Extension Period"), during which time the parties agree to work together to develop a new franchise agreement.
2. During the Extension Period, all the terms and conditions set forth in the Franchise Agreement shall continue in full force and effect.
3. Notwithstanding anything contained in the Franchise Agreement to the contrary, all notices shall be sent to XO Communications at the address(s) indicated below:
 - a. Rex Knowles
Director, State Regulatory Affairs
XO Communications, LLC
111 E. Broadway, Suite 1000
Salt Lake City, UT 84111
Rex.Knowles@xo.com
(801) 983-1504
(801) 951-2133 (Fax)
 - b. Gegi Leeger
Director, Regulatory Contracts
XO Communications, LLC
13865 Sunrise Valley Drive
Herndon, VA 20171
Gegi.Leeger@xo.com
(703) 547-2109 (voice)
(703) 547-3694 (fax)

4. This Franchise Extension Agreement shall be without prejudice to any rights of either party under any federal, state or local laws or regulations. Other than extending the term of the Franchise Agreement for the duration of the Extension Period, this Franchise Extension Agreement shall not expand or limit the rights of either party, create new rights that would not have existed without the extension, or adversely affect either party's rights in any renewal proceeding. No claim that either party may have against the other shall be released or otherwise affected by this Franchise Extension Agreement.

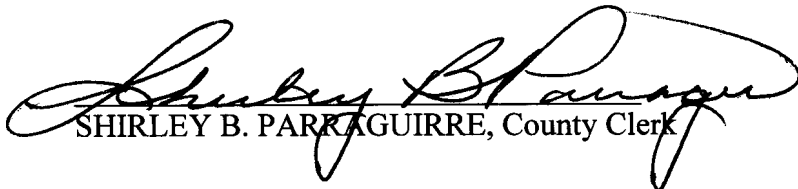
APPROVED this 5th day of January, 2009.

CLARK COUNTY BOARD OF COMMISSIONERS

BY: 

RORY REID, Chairman

ATTEST:


SHIRLEY B. PARRAGUIRRE, County Clerk

APPROVED AS TO FORM:
DISTRICT ATTORNEY'S OFFICE

BY: 

MARK E. WOOD
Deputy District Attorney

TELECOMMUNICATIONS OF NEVADA, INC.
d/b/a XO COMMUNICATIONS

BY: 

HEATHER B. GOLD
SVP – External Affairs