

(O-2004-129)

ORDINANCE NUMBER O-19281

ADOPTED ON MAY 24 2004

AN ORDINANCE APPROVING A NONEXCLUSIVE RIGHT-OF-WAY USE AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND NEXTG NETWORKS OF CALIFORNIA, INC.

WHEREAS, under federal and California law, the City has the right and power to regulate the time, location, and manner of attachment, installation, operation and maintenance of personal wireless services on public property within the City limits; and

WHEREAS, NextG Networks of California, Inc. [NextG] wishes to locate, place, attach, install, operate, control, and maintain a fiber-based telecommunications network utilizing microcellular optical repeater equipment upon the City's infrastructure in the public right-of-way for purpose of serving NextG's wireless customers; and

WHEREAS, the right to occupy portions of the public right-of-way upon City owned infrastructure for limited times, for the business of providing telecommunications services, is a valuable economic privilege, the economic benefit of which should be shared with all the taxpayers of the City; and

WHEREAS, NextG is willing to compensate the City in exchange for a grant of location and the right to use and physically occupy portions of the public right-of-way, on City infrastructure owned by the City or both; and

WHEREAS, the City has determined that entering into this Nonexclusive Right-of-Way Use Agreement on the terms set forth therein shall serve the public interest by providing the City and its residents with competitive wireless services and through such network and system, additional services as allowed by law; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

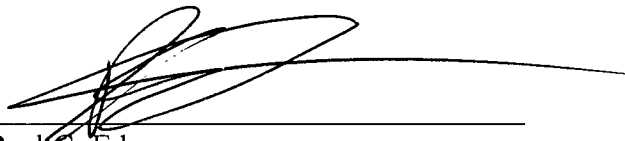
Section 1. That the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of said City, a Nonexclusive Right-of-Way Use Agreement between the City of San Diego and NextG Networks of California, Inc., under the terms and conditions set forth in the Nonexclusive Right-of-Way Use Agreement, on file in the office of the City Clerk as Document No. OO- 19281.

Section 2. That the per site Annual Fees are to be dedicated to the City's Transportation Department and the Right-of-Way Fees are to be dedicated to the City's General Fund.

Section 3. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By   
Paul G. Edmonson  
Deputy City Attorney

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