

(O-2005-111)

ORDINANCE NUMBER O- ~~19387~~

ADOPTED ON JUN 06 2005

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

WHEREAS, the Parties entered into a Nonexclusive Right-of-Way Use Agreement (“Use Agreement”) (on file with the Clerk of The City of San Diego and identified as Document No. OO-19281) on May 24, 2004, whereby NextG acquired the right to occupy portions of the public rights-of-way upon City owned infrastructure for providing telecommunication services; and

WHEREAS, the Use Agreement initially contemplated that NextG would attached its equipment upon City of San Diego infrastructure within the public rights-of-way; and

WHEREAS, the Council for the City of San Diego has expressed a desire that where practical, a wireless carrier and City staff should consider the use of traffic signals for the attachment of wireless equipment in lieu of a streetlight poles; and

WHEREAS, the Use Agreement contemplated that as technology advances, so may the equipment and that if there was a material change in the configuration of NextG’s equipment that was pre-approved in the Use Agreement, NextG would obtain the City’s approval before using the changed equipment upon a City municipal facility; and

WHEREAS, the City of San Diego and NextG desire to amend the terms of the Use Agreement so that NextG may, where practical, locate its wireless equipment upon City owned traffic signals, in addition to streetlight poles, and to use new equipment that integrates NextG’s operational needs into an aesthetic pleasing design; 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 First Amendment to the 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 First Amendment to the Nonexclusive Right-of-Way Use Agreement, on file in the office of the City Clerk as Document No. OO- 19387.

Section 2. 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 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 

Paul G. Edmonson
Deputy City Attorney

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Or.Dept:IT&C
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