

**AN ORDINANCE
BY CITY UTILITIES COMMITTEE**

04-0-1204

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE AGREEMENT WITH NEXTG NETWORKS of NEW YORK, INC., A DELAWARE CORPORATION d/b/a NEXTG NETWORKS EAST, TO PROVIDE TELECOMMUNICATIONS SERVICES USING PUBLIC RIGHT-OF-WAY INCLUDING APPROVED CITY OWNED STREETLIGHT AND STREET POLES; SPECIFYING THE COMPENSATION DUE THE CITY OF ATLANTA BY THE FRANCHISE AGREEMENT; AND FOR OTHER PURPOSES.

WHEREAS, NEXTG NETWORKS of NEW YORK, INC., d/b/a NEXTG NETWORKS EAST, desires to provide telecommunications services on, under over and through the public right-of-way of the City; and

WHEREAS, NEXTG NETWORKS of NEW YORK, INC., d/b/a NEXTG NETWORKS EAST, desires to attach equipment to the City owned streetlights and poles located in the public right-of-way; and

WHEREAS, said equipment, to be known as, "NextG Optical Repeater Network" will incorporate both wireless and fiber optic technologies to provide telecommunications services; and

WHEREAS, NEXTG NETWORKS of NEW YORK, INC., d/b/a NEXTG NETWORKS EAST, has negotiated a franchise agreement with the City, which provides such access and preserves the rights of the City.

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS:

SECTION 1: That the Mayor be and is hereby authorized to execute a franchise agreement with NEXTG NETWORKS of NEW YORK, INC., d/b/a NEXTG NETWORKS EAST, for use of the public right-of-way and the non-exclusive right of attachment to approved City streetlights and street poles for telecommunications purposes.

SECITON 2: That such franchise agreement shall expire and terminate two (2) years from its effective date. -

SECTION 3: NEXTG NETWORKS of NEW YORK, INC., d/b/a NEXTG NETWORKS EAST, shall pay the City an annual franchise fee equal to three percent (3%) of the franchisee's annual Gross Revenue, provided that in any calendar year that Grantee's Gross Revenue does not exceed \$500,000.00, the Franchise Fee shall be \$15,000.00 per year; provided further, however, that in no event will the Franchise Fee exceed an annual inflation-based cap. Under this Agreement, this cap will be set at eleven million dollars (\$11,000,000.00) annually. The Grantee's obligation to pay the Franchise Fee shall commence on the Effective Date and continue throughout the Term; fees shall be paid on a quarterly basis for the preceding quarter,



shall be due on April 15, July 15, October 15, and the 15th day of January of each year throughout the Term. In the quarter, the Franchise Fee shall be prorated relative to the number of days in the quarter that the Franchise is in effect. On or before each quarterly payment date, Grantee shall provide a certificate, signed and attested to by the appropriate corporate officers or authorized corporate representatives, which verifies Grantee's Gross Revenues for the prior quarter.

SECTION 4: In addition to the annual Franchise Fee, NEXTG NETWORKS of NEW YORK, INC., d/b/a NEXTG NETWORKS EAST, shall pay the City an annual attachment fee of \$600 per attachment to any City owned streetlight or streetpole that NEXTG is approved to utilize.

SECTION 5: That the City Attorney shall prepare a franchise agreement containing all of the foregoing terms, which shall be approved by the City Attorney as to form.

SECTION 6: That said franchise agreement shall not be binding on the City until executed by the Mayor sealed by the Municipal Clerk and delivered to NEXTG NETWORKS of NEW YORK, INC., d/b/a NEXTG NETWORKS EAST.

A true copy,

Shonda Daughtrio Johnson
Municipal Clerk, CMC

ADOPTED by the Council
APPROVED by the Mayor

AUG 16, 2004
AUG 20, 2004

RCS# 5970
8/16/04
4:08 PM

Atlanta City Council

Regular Session

04-O-1204 FRANCHISE AGRMNT NEXTG NETWORKS N.Y, INC
 TELECOMM SER USING PUBLIC RIGHT-OF-WAY
 ADOPT FINAL

YEAS: 15
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 0

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

(Do Not Write Above This Line)

04 Hours This 2004

AN ORDINANCE BY CITY UTILITIES COMMITTEE:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A FRANCHISE AGREEMENT WITH NEXTG NETWORKS OF NEW YORK, INC, A DELAWARE CORPORATION d/b/a NEXTG NETWORKS EAST, TO PROVIDE TELECOMMUNICATIONS SERVICES USING PUBLIC RIGHT-OF-WAY INCLUDING APPROVED CITY OWNED STRETLIGHTS AND STREET POLES; SPECIFYING THE COMPENSATION DUE THE CITY OF ATLANTA BY THE FRANCHISE AGREEMENT; AND FOR OTHER PURPOSES

ADOPTED BY COUNCIL ADOPTED BY COUNCIL

JUL 1 9 2004 AUG 1 6 2004

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred: 7/6/04
 Referred To: City Utilities
 Date Referred: 7/19/2004
 Referred To: City Utilities
 Date Referred: _____
 Referred To: _____

Committee: City Utilities
 Date: August 19, 2004
 Chair: _____
 Referred to: _____

Copy Copyrighted 7/6/04

Date: July 2004
Chair: _____

Action: Fav, Adv, Hold (see rev. side)
Other: _____

Members: _____

Refer To: _____

Committee

Date

Chair

Action: Fav, Adv, Hold (see rev. side)
Other: _____

Members

Refer To

Committee

Date

Chair

Action: Fav, Adv, Hold (see rev. side)
Other: _____

Members

Refer To

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Consent V Vote RC Vote

CERTIFIED

CERTIFIED AUG 1 6 2004

ATLANTA CITY COUNCIL PRESIDENT

AUG 1 6 2004

MAYOR'S ACTION

APPROVED AUG 2 0 2004

MAYOR