

**City of Culver City, California
Agenda Item Report**

Meeting Date: 02/28/2011		Item Number: <u>C-5</u>	
CITY COUNCIL AGENDA ITEM: Adoption of a Resolution Approving an Encroachment Permit Agreement with NextG Networks for Use of the Public Right-of-Way at Various Locations			
Contact Person/Dept.: Lee Torres/PW		Phone Number: 310-253-5623	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☐ Attachments: ☒	
Commission Action Required: Yes ☐ No ☒		Date: _____	
Public Notification: (E-Mail) Agenda and Meetings – City Council (2/23/11); (Mail) All adjacent property owners at the intersection of Braddock Drive and Le Bourget Avenue and published in the Culver City News (2/17/11).			
Department Approval: Charles D. Herbertson(02/17/11)		City Attorney Approval: Carol Schwab (by R. Miranda) (02/23/11)	
Chief Financial Officer Approval: Jeff Muir (by M. Noller) (02/23/11)		City Manager Approval: John M. Nachbar (02/23/11)	

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution approving an Encroachment Permit Agreement with NextG Networks (“NextG”) to install:

- 1) A microcellular antenna and auxiliary equipment onto an existing utility pole located in the public right-of-way at the southwest corner of Le Bourget Avenue and Braddock Drive;
- 2) Fiber optic cables on existing utility poles, starting at Jefferson Boulevard and Hetzler Road and ending at Braddock Drive and Mentone Avenue.

BACKGROUND/DISCUSSION:

NextG is a telecommunications provider that has been issued a Certificate of Public Convenience & Necessity by the California Public Utilities Commission. NextG installs and manages distributed antenna systems (DAS systems). DAS systems improve the performance of wireless carriers, such as cellular telephone providers. This improvement is accomplished by installing NextG’s radio frequency converter equipment onto existing utility poles or street lights in areas where wireless carriers (i.e. NextG’s customers) need to improve their coverage, capacity or performance. From the frequency converter equipment, NextG transports the communication frequencies, via NextG’s fiber optic cables, back to the wireless carriers’ networks. From here, the communication continues to its intended destination. NextG’s reliance on its radio frequency converter equipment, along with its fiber optic network, allows its customers to improve their coverage, capacity or performance without the need to build additional cell towers.

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Microcellular Antenna

The scope of work will involve the installation of a microcellular antenna and auxiliary equipment onto an existing utility pole located in the public right-of-way at the southwest corner of Le Bourget Avenue and Braddock Drive.

The purpose of the installation of the microcellular antenna and auxiliary equipment is for NextG to provide radio frequency transmissions over fiber services, to enhance coverage and capacity for their client, Metro PCS. This equipment installation is low impact and utilized where cell towers are not feasible. It also does not involve any underground construction (e.g. open trenching or directional boring).

Fiber Optic Installation

In September, 2010, NextG installed approximately 9,110 linear feet of fiber optic cable within the City limits (as shown in the System Exhibits). It was recently discovered by the City Attorney's Office and Public Works staff that this work was performed without City permits or City staff's review. After consulting with the City Manager's and City Attorney's Offices, staff is recommending that an after-the-fact permit be approved for the already-installed fiber optic cable at the same time that a permit for the above-described microcellular antenna is approved.

According to NextG, no undergrounding work was performed as part of this fiber optic cable installation and all the work involved was entirely aerial. The purpose of the fiber optic cable placement is to further expand NextG's growing fiber optic network.

Legal Framework

As a telephone corporation, NextG is authorized, under California law, to construct and maintain telecommunication lines and facilities along and upon cities' public rights-of-way. The related federal and state laws allow telephone corporations to install telecommunication facilities in cities' public rights-of-way but allow municipalities to impose reasonable time, place, and manner regulations pertaining to the construction of such facilities.

The City's time, place and manner regulations will be documented in the Encroachment Permit Agreement to be executed by NextG and the City if the City Council approves this item. To protect Culver City's interests, this agreement will contain provisions requiring that NextG repair any damage to City property, carry adequate liability and automobile insurance, defend the City if it is sued for damage caused by NextG, and post a performance bond prior to commencing work on this project.

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FISCAL ANALYSIS:

Per Section 11.20.025.B of the Culver City Municipal Code, the City may collect an application fee as compensation for City staff time expended in reviewing telecommunication applications. Based on Resolution No. 2010-R016, the City's Fee Resolution for Fiscal Year 2010/2011, a fee in the amount of \$3,850 was paid by NextG on February 9, 2011.

ATTACHMENTS:

- Proposed Resolution
- System Exhibits

MOTIONS:

That the City Council:

1. Adopt a resolution approving the Encroachment Permit Agreement with NextG Networks;
2. Authorize the City Attorney to review/prepare the necessary documents; and,
3. Authorize the City Manager to execute the documents on behalf of the City.