

ORDINANCE 968

AN ORDINANCE OF THE CITY OF PINEY POINT VILLAGE, TEXAS, GRANTING TO NEXTG NETWORKS OF ILLINOIS INC., THE AUTHORITY AND LICENSE TO PLACE, OPERATE, AND UTILIZE ITS FACILITIES WITHIN PUBLIC RIGHTS-OF-WAY OF THE CITY FOR THE PURPOSE OF PROVIDING TELECOMMUNICATIONS SERVICES; MAKING CERTAIN FINDINGS; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT.

* * * * *

WHEREAS, City of Piney Point Village, Texas, Ordinance No. 967 (the “Regulatory Ordinance”), passed and approved the 27th day of November, 2006, provides rules and regulations governing the use of City rights-of-way by providers of telecommunications services; and

WHEREAS, pursuant to Article VI of the City of Piney Point Village Code of Ordinances, telecommunications providers wishing to utilize City rights-of-way for the provision of their services are required to obtain a License from the City in accordance therewith; and

WHEREAS, NextG Networks, Inc., (the “Applicant”) is a telecommunications provider and has applied to the City to obtain such a License; and

WHEREAS, NextG Networks, Inc., (the “Applicant”) has received from the Public Utilities Commission of Texas a Service Provider Certificate of Operating Authority (SPCOA) No. 60717 to provide facilities based telecommunications services in the State of Texas; and

WHEREAS, the City Council has determined that the Applicant’s proposed use of the City’s rights-of-way for such purposes complies with the requirements of the Regulatory Ordinance; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PINEY POINT VILLAGE, TEXAS:

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Pursuant to the Regulatory Ordinance, the Applicant, NextG Networks, Inc., is hereby granted the authority and License to place, operate, and utilize its facilities within the public rights-of-way of the City for the purpose of providing telecommunications services, provided that:

- (a) no horizontal side bars will radiate from the telecommunications equipment other than the mounting braces,
- (b) the telecommunications equipment will be mounted no more than 2 to 3 inches from the pole to which it is attached,
- (c) the City has approved the pole to which the telecommunications equipment will be attached,
- (d) the color of the telecommunications equipment will match the pole to which it is attached (which color must be approved by City), and
- (e) the telecommunications equipment will be placed on the pole so that it does not face the street, and
- (f) NextG Networks, Inc., has completed an agreement with at least one subscriber to use the equipment.

Section 3. The authority and License granted hereby is subject to each applicable term and condition of the Code of Ordinances, Chapter 56, Division 2, Sections 56-41 and 56-41(b)(2), as it exists on the date of adoption hereof and as may be lawfully amended from time to time, the provisions of which are incorporated herein by reference as if set forth herein verbatim.

Section 4. The term of the License granted hereby shall be for a period of ten (10) years, commencing as of the date hereof, unless terminated earlier pursuant to the Regulatory Ordinance.

Section 5. Pursuant to the terms and conditions set forth in the Regulatory Ordinance Section 70-193(b)(2), NextG Networks, Inc., shall pay to the City an annual fee which equals four (4) percent of the gross revenues received by licensee from customers within the city.

Section 6. In the event any clause phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Piney Point Village, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 27th day of November, 2006.



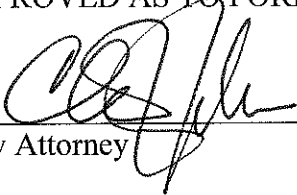
Carol Fox
Mayor

ATTEST:



Lorena Briel
City Administrator

APPROVED AS TO FORM:



City Attorney

Exhibit "A" – Network Equipment
Exhibit "B" – Insurance Certificate