

**FIRST AMENDMENT TO CITY OF SAN DIEGO
USE AND OCCUPANCY PERMIT**

THIS FIRST AMENDMENT TO CITY OF SAN DIEGO USE AND OCCUPANCY PERMIT ("Amendment") is made by and between NEXTG NETWORKS OF CALIFORNIA, INC., a Delaware corporation ("PERMITTEE"), and THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), to be effective as of the date of execution by CITY (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney, as follows:

RECITALS

- A. PERMITTEE, as permittee, and CITY, as permittor, are parties to that certain CITY OF SAN DIEGO USE AND OCCUPANCY PERMIT (the "Permit") by and between CITY and PERMITTEE dated November 1, 2010, attached hereto as **Exhibit A: Permit**, under which PERMITTEE uses that certain real property for the purpose of installing and operating omnidirectional antennas throughout Balboa Park as more particularly described in the Permit.
- B. CITY and PERMITTEE desire to amend the Permit as set forth below.

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

1. **Conduit Use**. The following language shall be added to Permit Section 6, **Rent**, as set forth below:

- 6.4 **Conduit Use Fee**. PERMITTEE shall pay to CITY a conduit use fee for the use of 310 linear feet at BAL02 (Zoo Drive/War Memorial Building) and 2,150 linear feet at BAL06 (Alcazar Lot) for a total of 2,460 linear feet of CITY-owned conduit at the rate of One Dollar (\$1) per linear foot equal to Two Thousand Four Hundred Sixty Dollars (\$2,460) per Permit Year ("Annual Conduit Fee"), subject to annual adjustments as of the first day of the second Permit Year and each Permit Year thereafter, as follows:

Permit Year Two	\$2,534
Permit Year Three	\$2,610
Permit Year Four	\$2,688
Permit Year Five	\$2,769
Permit Year Six	\$2,852
Permit Year Seven	\$2,937
Permit Year Eight	\$3,025
Permit Year Nine	\$3,116
Permit Year Ten	\$3,210

The above fee schedule reflects an annual fee escalation equal to three percent (3%) above the Annual Conduit Fee for each preceding Permit Year. All Annual Conduit Fee payments shall be made in accordance with Section 6.1 of this Permit and subject to Section 6.2 of this Permit.

The linear feet of conduit to be used by PERMITTEE shall be verified by CITY'S Park and Recreation Department prior to PERMITTEE'S usage.

2. No Other Changes. All other terms and conditions of the Permit shall remain in full force and effect.

IN WITNESS WHEREOF, this Amendment is executed to be effective as of the Effective Date.

Date: 2/4/11

THE CITY OF SAN DIEGO, a California municipal corporation

BY: 

Name: James F. Barwick, CCIM

Title: Director, Real Estate Assets

Date: FEB 0 1 2011

NEXTG NETWORKS OF CALIFORNIA, INC., a Delaware corporation

BY: 

Name: Robert L. Delsman

Title: SVP & General Counsel

APPROVED AS TO FORM AND LEGALITY:

Date: 2/8/11

JAN I. GOLDSMITH, City Attorney

BY: 

Name: Brock Ladewig

Title: Deputy City Attorney

Approved as to Form
and Legal Sufficiency:


Signature/Initials

Date: 12/7/2010

EXHIBIT A: Permit