

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 230418-031

WHEREAS, Telecommunications companies seek to install cellphone equipment (called Outdoor Distributed Antenna Systems or ODAS) on City-owned poles, and the SFMTA owns 10,000 poles on which Telecoms might install ODAS, and the SFPUC owns 30,000 such poles; and

WHEREAS, In 2012-2014, the SFMTA negotiated Master License Agreements (2014 MLAs) with telecommunications companies, which established license requirements and terms and conditions under which Telecoms were permitted to install ODAS on SFMTA poles; and

WHEREAS, To date, SFMTA has issued 253 Pole Licenses under four 2014 MLAs, and SFPUC has issued approximately 800 Pole Licenses. The SFMTA charges the telecommunications companies application and annual license fees for each licensed pole; and

WHEREAS, To respond to increasing public demand for cellphone services, telecommunications companies seek to install more and new ODAS equipment on SFMTA poles; and

WHEREAS, Changes in federal law have reduced and limited to cost recovery the fees that the City can charge telecommunications companies for using SFMTA and SFPUC poles, which will reduce annual Pole License revenues to the SFMTA from the current \$1.3 million to \$220,000-\$330,000, and imposed other requirements, including changes to licensing procedures, which required negotiating new Master License Agreements with the Telecoms; and

WHEREAS, The Mayor's Office of Economic and Workforce Development led negotiations with SFMTA and SFPUC and telecommunications companies for new Master License Agreements (2023 MLAs), which resulted in changes to administrative and license fees and application procedures, but reaffirmed that transit has highest priority for pole use; and

WHEREAS, The 2023 MLA will increase Pole License application fees, decrease annual license fees, and annually amend rates using an annual escalation rate; and

WHEREAS, The existing 253 Pole Licenses the SFMTA has issued will remain subject to the 2014 MLAs until the 2014 MLAs expire, after which the licensee telecommunications companies may apply to have those existing Pole Licenses reissued under the 2023 MLA; and

WHEREAS, Board of Supervisors' approval of the 2023 MLAs is required under Charter section 9.118 because the term of the 2023 MLAs will exceed 10 years and the estimated revenues from each 2023 MLA will exceed One Million Dollars; and

WHEREAS, The 2023 MLA provides that the SFMTA has the absolute right in its sole discretion to terminate any or all Pole Licenses if the SFMTA determines that use of a pole by a telecommunications company adversely affects or poses a threat to public health and safety,

constitutes a public nuisance, interferes with transit operations, or requires the SFMTA to maintain a pole that is no longer required for SFMTA purposes; and

WHEREAS, The 2023 MLA provides that the SFMTA has the right to remove any SFMTA pole or remove a telecommunications company's equipment from a pole as SFMTA may determine is necessary for transit or transportation operations; and

WHEREAS, On March 24, 2023, the SFMTA, under authority delegated by the Planning Department, determined that the SFMTA's approval of the form 2023 MLA and execution of the 2023 MLAs with AT&T, Verizon, Extenet, Crown Castle, and Mobilitie is not a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b). The approval and execution of those agreements do not commit the SFMTA to authorize the use of specific poles. ODAS installation under individual Pole Licenses will require separate environmental review, and the SFMTA will not approve a Pole License until the proposed installation has been reviewed and the appropriate environmental review under the CEQA has been completed; and

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors and is incorporated herein by reference; now, therefore be it,

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the form 2023 Master License Agreement; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the increase to the license application fee for 2023 to \$2,126, of which \$1,594.50 will go to the SFMTA and \$531.50 to the SFPUC, as provided in the 2023 MLA, which are not fees that affect the public; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the decrease in the annual license fee for 2023 to \$864.22 per licensed pole, as provided in the 2023 MLA, which are not fees that affect the public; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the annual escalation provisions of the 2023 MLA, which annually will increase the license application fee and the annual Pole License fee four percent, or if the Consumer Price Index For All Urban Consumers (CPI-U) Index rate is six percent or more, the escalation rate will be the actual CPI-U Index rate, beginning (and retroactive to) January 2023; and be it further

RESOLVED, That future agreements to install telecommunications equipment on Muni poles shall use the 2023 Master License Agreement Form, and said agreements shall be subject to SFMTA Board of Directors' approval in accordance with SFMTA Board policies, and shall also be subject to Board of Supervisors' approval to the extent said agreements are subject to Charter Section 9.118; and be it further

RESOLVED, That the Director of Transportation, and any person to whom the Director of Transportation may redelegate said authority, is authorized to execute Pole Licenses issued under and subordinate to an approved 2023 Master License Agreement; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the 2023 Master License Agreement with NEW CINGULAR WIRELESS PCS, LLC, (dba AT&T) a Delaware limited liability company, under the terms and conditions stated in the 2023 Master License Agreement Form, for a term of 12 years, and requests the Board of Supervisors approve that agreement; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the 2023 Master License Agreement with GTE Mobilnet of California Limited Partnership, d/b/a Verizon Wireless, a California limited partnership, under the terms and conditions stated in the 2023 Master License Agreement Form, for a term of 12 years, and requests the Board of Supervisors approve that agreement; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the 2023 Master License Agreement with EXTENET SYSTEMS, LLC a Delaware Corporation, under the terms and conditions stated in the 2023 Master License Agreement Form, for a term of 12 years, and requests the Board of Supervisors approve that agreement; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the 2023 Master License Agreement with Crown Castle Fiber LLC, a New York limited liability company, under the terms and conditions stated in the 2023 Master License Agreement Form, for a term of 12 years, and requests the Board of Supervisors approve that agreement; and be it further

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors approves the 2023 Master License Agreement with MOBILITIE, LLC, a Nevada limited liability company, under the terms and conditions stated in the 2023 Master License Agreement Form, for a term of 12 years, and requests the Board of Supervisors approve that agreement.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting April 18, 2023.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency