

1 [Master License Agreement - New Cingular Wireless, LLC - Wireless Telecommunication  
2 Equipment on Transit Support Poles - Revenue to Exceed \$1,000,000]

3 **Resolution retroactively approving an executed Master License Agreement between the**  
4 **City and County of San Francisco and New Cingular Wireless, LLC, for the installation**  
5 **of wireless telecommunication antennae and equipment on San Francisco Municipal**  
6 **Transportation Agency poles, each for an amount to exceed \$1,000,000 and a term of**  
7 **nine years estimated from December 30, 2015, through December 29, 2024; and**  
8 **affirming the Planning Department’s determination under the California Environmental**  
9 **Quality Act.**

10  
11 WHEREAS, Charter, Section 8A.102(b)1 provides in pertinent part that the San  
12 Francisco Municipal Transportation Agency (SFMTA) has "exclusive authority over the  
13 acquisition, construction, management, supervision, maintenance, extension, operation, use,  
14 and control of all property, as well as the real, personal, and financial assets of the Agency;  
15 and [has] ... exclusive authority over contracting, leasing, and purchasing by the Agency"; and

16 WHEREAS, Charter Section 8A.109(b) requires that the Mayor, the Board of  
17 Supervisors, and the SFMTA “diligently shall seek to develop new sources of funding for the  
18 Agency's operations”; and

19 WHEREAS, The SFMTA currently owns approximately 10,000 Transit Poles in San  
20 Francisco, which are poles of various types of construction used to support the overhead  
21 catenary traction power system that powers trolley buses and light rail vehicles; and

22 WHEREAS, In late 2013, wireless telecommunications companies approached the  
23 SFMTA seeking access to its Transit Poles for the installation of wireless telecommunication  
24 antennae and equipment (ODAS Equipment) to enhance wireless telephone and data  
25 services to their customers in San Francisco; and

1           WHEREAS, On July 15, 2014, by Resolution No. 14-121, the SFMTA Board of  
2 Directors adopted a "Policy for Placement of Wireless Facilities on SFMTA Owned and  
3 Managed Real Estate Assets" (SFMTA Wireless Policy) that established policies and  
4 procedures that govern the fair access and use of Transit Poles by third parties; and

5           WHEREAS, On July 15, 2014, also by Resolution No. 14-121, the SFMTA Board  
6 approved a form Master Outdoor Distributed Antenna System Pole License Agreement  
7 ("Master License Agreement"), which SFMTA staff negotiated with representatives of the  
8 telecommunication industry, and also delegated to the Director of Transportation the authority  
9 to approve Master License Agreements on behalf of the SFMTA; and

10          WHEREAS, The form Master License Agreement contains a mechanism for issuing  
11 individual Pole Licenses, each designating the locations of the licensed Transit Pole(s),  
12 describing the ODAS Equipment to be installed on said Transit Pole(s), and setting out  
13 conditions or requirements unique to the licensed Transit Pole(s) as to ODAS Equipment  
14 installation and aesthetic requirements; and

15          WHEREAS, The form Master License Agreement and the SFMTA Wireless Policy  
16 authorize the SFMTA to consult with the Planning Department to ensure that the design of  
17 any ODAS Equipment to be installed on any Transit Pole is appropriate for a given location;  
18 and

19          WHEREAS, The form Master License Agreement provides that the SFMTA will not  
20 allow any ODAS Equipment or other communications equipment to be installed on a Transit  
21 Pole unless the Department of Public Works has issued the permit required under Article 25  
22 of the Public Works Code; and

23          WHEREAS, On November 3, 2015, by Resolution No. 15-150, the SFMTA Board  
24 adopted an "ODAS Pole Selection Policy and Charges for Unpowered and Unmapped Poles"  
25

1 that established additional pole license review procedures and proprietary charges to Transit  
2 Poles without power; and

3 WHEREAS, On November 3, 2015, by Resolution No. 15-151, the SFMTA Board  
4 recommended that the Board of Supervisors retroactively approve three Master License  
5 Agreements with Mobilitie Investment III, LLC, Extenet Systems (California), LLC, and GTE  
6 Mobilnet, LP d/b/a Verizon Wireless, each for an amount to exceed \$1,000,000 and a term of  
7 nine years; and

8 WHEREAS, On December 1, 2015, the Board of Supervisors approved the three  
9 Master License Agreements, which are on file with the Clerk of the Board of Supervisors in  
10 File No. 151100; and

11 WHEREAS, On December 30, 2015, the SFMTA entered into a Master License  
12 Agreement with a fourth telecommunications firm, New Cingular Wireless, LLC (now AT&T),  
13 for a term of nine years; and

14 WHEREAS, On July 19, 2016, the SFMTA Board of Directors adopted Resolution No.  
15 16-090, recommending that the Board of Supervisors retroactively approve the Master  
16 License Agreement between the SFMTA and New Cingular Wireless, LLC, for a term of nine  
17 years and revenues of \$1,000,000 or more, which resolution is on file with the Clerk of the  
18 Board of Supervisors in File No. 160786; and

19 WHEREAS, AT&T initially represented that it would seek to install ODAS on 14 poles,  
20 but subsequently requested licenses for 75 poles, thereby increasing the SFMTA's anticipated  
21 revenues from the MLA from \$534,618 to \$2,864,025; and,

22 WHEREAS, Charter, Section 9.118(a) requires that the Board of Supervisors by  
23 resolution approve any contract that produces revenues of \$1,000,000 or more; and,

24 WHEREAS, Approval of the Master License Agreement is not subject to the California  
25 Environmental Quality Act (CEQA) as defined under California Environmental Quality Act

1 (CEQA), California Public Resources Code, Sections 21000 et seq., the CEQA Guidelines, 15  
2 Cal. Administrative Code, Sections 15000 et seq., (CEQA Guidelines), and San Francisco  
3 Administrative Code, Chapter 31 (Chapter 31); and

4 WHEREAS, On June 24, 2016, the Planning Department has determined that the  
5 actions contemplated in this Resolution comply with CEQA; and

6 WHEREAS, Said determination is on file with the Clerk of the Board of Supervisors in  
7 File No. \_\_\_\_\_ and is incorporated herein by reference; and

8 WHEREAS, The Board of Supervisors affirms the Planning Department's CEQA  
9 determination; now, therefore, be it

10 RESOLVED, That the Board of Supervisors approves the Master Outdoor Distributed  
11 Antenna System Pole License Agreement between the SFMTA and New Cingular Wireless,  
12 LLC, dated December 1, 2015, which Agreement is on file with the Clerk of the Board of  
13 Supervisors, for an amount to exceed \$1,000,000 and a term of nine years estimated from  
14 December 30, 2015, through December 30, 2024; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of  
16 Transportation of the SFMTA to enter into any amendments or modifications to the Agreement  
17 (including, without limitation, the exhibits to those documents) that the Director of  
18 Transportation determines, in consultation with the City Attorney, are in the best interest of the  
19 City, do not increase expenditures or otherwise materially increase the obligations or liabilities  
20 of the City, are necessary or advisable to effectuate the purposes of the Agreement, or this  
21 Resolution, and are in compliance with all applicable laws, including the City's Charter; and,  
22 be it

23 FURTHER RESOLVED, That within 30 days of the Master License Agreement being  
24 fully executed by all parties, the final documents shall be provided to the Clerk of the Board for  
25 inclusion in the official file.