

1 [Settlement of Lawsuit - Bay Area Motivate, LLC - \$330,000]

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3 **Ordinance authorizing settlement of the lawsuit filed by Bay Area Motivate, LLC against**
4 **the City and County of San Francisco for \$330,000 and other mutually beneficial terms;**
5 **the lawsuit was filed on June 7, 2019, in San Francisco Superior Court, Case No.**
6 **CGC-19-576554; entitled Bay Area Motivate, LLC v. City and County of San Francisco,**
7 **San Francisco Municipal Transportation Agency, and Does 1-50; the lawsuit involves**
8 **claims for breach of contract and declaratory relief; other material terms of the**
9 **settlement involve the San Francisco Municipal Transportation Agency’s agreement to**
10 **acknowledge Bay Area Motivate, LLC’s contractual exclusivity while retaining the**
11 **ability to utilize a second bike share operator in certain enumerated circumstances,**
12 **and other programmatic and operational terms regarding the Bay Area Bike Share**
13 **Program in San Francisco.**

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15 Be it ordained by the People of the City and County of San Francisco:

16 Section 1. Pursuant to Charter Section 6.102(5), the Board of Supervisors hereby
17 authorizes the City Attorney to settle the action entitled Bay Area Motivate, LLC v. City and
18 County of San Francisco, San Francisco Municipal Transportation Agency, and Does 1-50,
19 San Francisco Superior Court, Case No. CGC-19-576554, by the payment of \$280,000 and
20 an agreement by the San Francisco Municipal Transportation Agency (“SFMTA”) to waive
21 \$50,000 in fees owed by Bay Area Motivate, LLC (“Motivate”), along with the SFMTA’s
22 agreement to acknowledge Motivate’s contractual exclusivity while retaining the ability to
23 utilize a second bike share operator in certain enumerated circumstances, and other
24 programmatic and operational terms regarding the Bay Area Bike Share Program in San
25 Francisco. The lawsuit involves the interpretation of a grant of exclusive rights to Motivate in

1 the 2015 Coordination Agreement entered into by San Francisco and Motivate (and other
2 parties) regarding the regional Bay Area Bike Share Program, and includes claims for breach
3 of contract, specific performance, and declaratory relief.

4 Section 2. The above-named action was filed in San Francisco Superior Court on
5 June 7, 2019, and the following parties were named in the lawsuit: Plaintiff: Bay Area
6 Motivate, LLC; and Defendants: the City and County of San Francisco, the San Francisco
7 Municipal Transportation Agency, and Does 1-50.

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APPROVED AS TO FORM AND
RECOMMENDED:

DENNIS J. HERRERA
City Attorney

/s/ YVONNE MERÉ
YVONNE MERE
Chief of Complex and Affirmative Litigation

FUNDS AVAILABLE:

/s/
BEN ROSENFELD
Controller

RECOMMENDED:

SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY

/s/ JEFFREY TUMLIN
JEFFREY TUMLIN
Director of Transportation

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails
Ordinance

File Number: 201279

Date Passed: January 05, 2021

Ordinance authorizing settlement of the lawsuit filed by Bay Area Motivate, LLC against the City and County of San Francisco for \$330,000 and other mutually beneficial terms; the lawsuit was filed on June 7, 2019, in San Francisco Superior Court, Case No. CGC-19-576554; entitled Bay Area Motivate, LLC v. City and County of San Francisco, San Francisco Municipal Transportation Agency, and Does 1-50; the lawsuit involves claims for breach of contract and declaratory relief; other material terms of the settlement involve the San Francisco Municipal Transportation Agency's agreement to acknowledge Bay Area Motivate, LLC's contractual exclusivity while retaining the ability to utilize a second bike share operator in certain enumerated circumstances, and other programmatic and operational terms regarding the Bay Area Bike Share Program in San Francisco.

December 03, 2020 Government Audit and Oversight Committee - RECOMMENDED

December 15, 2020 Board of Supervisors - PASSED ON FIRST READING

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

January 05, 2021 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Fewer, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

File No. 201279

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 1/5/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

Date Approved