



Legislation Text

File #: 18-300, **Version:** 1

Resolution approving a Master License Agreement for small cell wireless facilities installation; approving administrative and license fees proposed pursuant to the Agreement; authorizing the City Manager to execute the Agreement; and authorizing the Finance Director to amend the Master Fee Schedule.

WHEREAS, the City of South San Francisco (“City”) owns street light poles, traffic signal poles, safety poles, and other poles (each, a “City Pole”) within the public right-of-way and owns or controls public right-of-way within the City of South San Francisco located in San Mateo County, State of California; and

WHEREAS, in response to new advances in telecommunication technology and legislative proposals, the City adopted an ordinance in October 2017 which regulated wireless telecommunication facilities by adding a chapter to address anticipated “Small Cell Wireless Facilities” installation proposals in the City; and

WHEREAS, the ordinance established a comprehensive set of requirements and standards to regulate small cell facilities development, siting, installation, operation, and termination of operation; and

WHEREAS, the City has recently been contacted by multiple wireless communications service providers interested in deploying new small cell facilities within the City right-of-way, which would provide enhanced wireless services throughout the community; and

WHEREAS, various types of antennas and associated equipment are required to deliver wireless coverage and capacity; and

WHEREAS, wireless providers are proposing to place a single “small cell” antenna and equipment on existing overhead infrastructure located within the public rights-of-way; and

WHEREAS, under California law, wireless providers have the authority to install and maintain telephone lines in the public right-of-way to provide wireless telecommunications services; and

WHEREAS, the City also has the authority under state law to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed; and

WHEREAS, the proposed Master License Agreement (“MLA”) is a comprehensive document that contains uniform terms and conditions applicable to all wireless facilities installed on City-owned poles that would allow the City to exercise control over the design, installation, access, removal and other circumstances related

to the use of City Poles for small cell installation; and

WHEREAS, the proposed MLA would not directly grant any rights to use an individual City Pole, but rather establishes the procedures, terms and conditions under which licensees obtain individual pole licenses; and

WHEREAS, the goal of the MLA is to align the City's available infrastructure assets with wireless service provider's demand for access, develop uniform and predictable processes for evaluating individual pole license applications, maintain the City's municipal functions related to public health and safety, establish maintenance requirements and standards for the licensee, and preserve the community's aesthetic characteristics; and

WHEREAS, the City negotiated the terms of the template MLA with several wireless providers; and

WHEREAS, wireless providers desiring access to City-owned poles have the opportunity to enter into the MLA with the City that would entitle them to obtain individual pole licenses on a first-come, first-served basis for a duration of the MLA; and

WHEREAS, this framework creates a single set of rules for all providers that reduces the administrative burden on the City and promotes a level playing field among competitor licensees; and

WHEREAS, among the key terms and conditions of the MLA are:

- The term of the MLA is ten (10) years, and renewable for subsequent five (5)-year intervals, subject to each party's option to not renew upon one hundred and eight (180) days' notice to the other party;
- Pursuant to the MLA, licensees are required to obtain individual licenses according to the terms under the MLA for every pole where small cell facilities are proposed;
- Individual pole licenses require the licensees to obtain all applicable and necessary regulatory approvals prior to becoming effective;
- The term of each pole license will be from the effective date through the term of the MLA or the earlier termination of the MLA, whichever occurs sooner;
- Annual License Fee per City-owned pole is \$1,500. The License Fee will escalate by 3 percent on each anniversary of the month after each Pole License becomes effective;
- The MLA also imposes additional requirements of installation guidelines and design review compliance; and

WHEREAS, in addition to a Pole License Fee, wireless providers will be responsible for paying a Master License Application Processing payment and a Pole License Administrative Processing payment; and

WHEREAS, the Pole License Fee, Master License Processing Fees and Administrative Fees would be set forth in the City's Master Fee Schedule.

NOW, THEREFORE, BE IT RESOLVED that based on the entirety of the record before it, which includes

without limitation, the California Environmental Quality Act, Public Resources Code §21000, et seq. (“CEQA”) and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the South San Francisco General Plan and General Plan EIR, including all amendments and updates thereto; the South San Francisco Municipal Code, all reports, minutes, and public testimony submitted as part of the City Council’s April 11, 2018 meeting and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the City Council of the City of South San Francisco hereby finds the approval of a Master License Agreement template to be categorically exempt from CEQA pursuant to California Code of Regulations Title 14, Chapter 3, section 15303, class 3, “New Construction or Conversion of Small Structures”.

BE IT FURTHER RESOLVED that the City Council of the City of South San Francisco hereby takes the following actions:

1. Approves the form of the Master License Agreement for Small Cell Pole Attachment Installation with wireless services providers; and,
2. Authorizes the City Manager to execute the Master License Agreement on behalf of the City in substantially in substantially the same form as attached hereto as Exhibit A; to make any revisions, amendments, corrections and modifications to the Master License Agreement, subject to the approval of the City Attorney, deemed necessary to carry out the intent of this Resolution and which do not materially alter or increase the City’s obligations thereunder; and
3. Approves the Pole License Fee, Master License Application Processing payment and Pole License Administrative Processing payment in the amounts proposed in the Master License Agreement, and as shown in Exhibit B attached hereto; and
4. Authorizes the Finance Director to amend the Master Fee Schedule consistent with the information contained in Exhibit B to incorporate the Pole License Fee, Master License Application Processing payment and Pole License Administrative Processing payment; and
5. Authorizes the City Manager to take any other related actions consistent with the intention of the resolution.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon its passage and adoption.

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