

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

**RESOLUTION NO. 2023-**

**RESOLUTION OF THE CITY OF SAN LEANDRO CITY COUNCIL TO APPROVE A MASTER LICENSE AGREEMENT WITH CINGULAR WIRELESS PCS, LLC FOR SMALL CELL POLE ATTACHMENT INSTALLATIONS AND AUTHORIZING THE CITY MANAGER TO ENTER SUBSTANTIVELY SIMILAR AGREEMENTS WITH OTHER PROVIDERS**

**WHEREAS**, the City of San Leandro owns street light poles, traffic signal poles, safety poles, and other poles (each, a “City Pole”) within the public right-of-way; and

**WHEREAS**, Cingular Wireless PCS, LLC, a wireless service provider requested permission to deploy new small cell facilities on City Poles that will enhance private wireless service throughout the community; and

**WHEREAS**, under existing federal and state law, the City is not precluded from negotiating agreements to regulate private wireless telecommunications facilities in the public right-of-way; and

**WHEREAS**, approving a Master License Agreement for Small Cell Pole Attachment Installations (“MLA”) would allow the City to exert its authority over these facilities, including the authority to regulate the aesthetic qualities of the facilities and the appropriateness of the equipment within each neighborhood; and

**WHEREAS**, the proposed MLA with Cingular Wireless PCS, LLC maintains uniform terms and conditions applicable to wireless facilities installed on City-owned poles; and

**WHEREAS**, the proposed MLA would not directly grant any rights to use City Poles, but rather establishes the procedures, terms and conditions under which licensee can obtain Pole Licenses according to the City's Encroachment Permit process; and

**WHEREAS**, the City negotiated the terms of the proposed MLA with Cingular Wireless PCS, LLC; and

**WHEREAS**, the proposed MLA contains administrative and annual license fees, in addition to performance guarantees and penalties for violations; and

**WHEREAS**, the City desires to make the terms of the MLA available to other eligible providers.

**NOW, THEREFORE**, the City Council of the City of San Leandro does **RESOLVE** as follows:

1. That the MLA with Cingular Wireless PCS, LLC is approved by the City Council.
2. That the City Manager is authorized to execute the MLA with Cingular Wireless PCS, LLC, or any other eligible providers, in substantially the same form as attached hereto; to make any revisions, amendments, corrections and modifications to the MLA subject to the approval of the City Attorney, as deemed necessary to carry out the intent of this Resolution and which do not materially alter or increase the City’s obligations thereunder.

3. That the collection of all fees prescribed by the MLA with Cingular Wireless PCS, LLC or any other providers is approved, and said fee payments shall be directed to a General Revenue account to be established by the Finance Director; and
4. That the City Manager is authorized to delegate the processing and execution of individual Pole Licenses in substantially the same form as attached hereto to the Engineering and Transportation Director or designee.

Introduced by Councilmember Aguilar and passed and adopted this 17<sup>th</sup> day of July 2023, by the following vote:

**AYES:** ()

**NOES:** ()

**ABSENT:** ()

**ATTEST:** \_\_\_\_\_  
Kelly B. Clancy, CMC  
City Clerk