

**THIS IS A PROPOSED DRAFT AND WILL BE REPLACED BY THE FINAL,
SIGNED ORDINANCE OR RESOLUTION ADOPTED BY THE CITY COUNCIL.**

AN ORDINANCE

ACCEPTING TWO MASTER LICENSE AGREEMENTS WITH MOBILITIE, LLC, A NEVADA LIMITED LIABILITY COMPANY; A MASTER LICENSE AGREEMENT FOR THE USE OF CITY RIGHTS-OF-WAY FOR THE INSTALLATION OF SMALL CELL EQUIPMENT ON UTILITY AND TRAFFIC LIGHT POLES, AND A MASTER LICENSE AGREEMENT FOR USE OF CITY RIGHTS-OF-WAY TO INSTALL AND MAINTAIN FIBER OPTIC CABLE, CONDUIT AND RELATED FACILITIES TO SUPPORT SMALL CELL INSTALLATIONS.

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WHEREAS, Mobilitie, LLC, a Nevada Limited Liability Company (“Mobilitie”) is a communications infrastructure provider that installs small cell antenna equipment to address capacity gaps in the networks of its personal communications provider customers (“wireless providers”); and

WHEREAS, Mobilities’ small cell antenna equipment installations are typically supported by fiber optic cable and related wireline facilities; and

WHEREAS, City staff has worked with Mobilitie and has developed two agreements: a master license agreement to install small cell antenna equipment in the rights-or-way (“Master License Small Cell Agreement”) that will authorize Mobilitie to deploy its small cell antenna equipment throughout the City, and a master license agreement to install fiber optic cable, conduit and related wireline facilities (“Master License Fiber Agreement”) that will authorize Mobilitie to install facilities in the rights-or-way that support the small cell antenna equipment installed pursuant to the Master License Small Cell Agreement; and

WHEREAS, under the terms of the Master License Small Cell Agreement, Mobilitie will have access to the City’s rights-or-way and in particular City traffic light poles, and utility poles owned by CPS Energy pursuant to a separate pole attachment agreement; and

WHEREAS, each small cell antenna deployed pursuant to the Master License Small Cell Agreement will authorize the use of a 36 square foot area to accommodate the dimensions of the equipment and entry of personnel to install, operate, and maintain the small cell equipment on a pole; and

WHEREAS, small cell antenna equipment deployed pursuant to the terms of the Master License Small Cell Agreement will be subject to an application processing fees of seven hundred dollars (\$700.00) per small cell site application; and

WHEREAS, under the terms of the Master License Small Cell Agreement, Mobilitie will pay the City an annual license fee of one thousand five hundred dollars (\$1,500.00) for every small cell antenna deployed in the City's Right-of-Way with an annual escalation fee of 3%; and

WHEREAS, the Master License Small Cell Agreement will have a twenty five (25) year term, subject to renegotiations every five years; and

WHEREAS, under the terms of the Master License Small Cell Agreement, Mobilitie will comply with historic preservation regulations, respect the aesthetics of the downtown commercial district, comply with rights-or-way management regulations, pay applicable rights-of-way permitting fees, coordinate its installation activities with appropriate city departments and with CPS Energy, and provide indemnity protection for the City; and

WHEREAS, the application fees generated from the Master License Small Cell Agreement, consistent with the FY 2017 budget, will be deposited to benefit the Information Technology Services Department to cover expense of additional personnel necessary for administration of the small cell site applications, technical review of engineering design documents, development of an online application processing tool, and contract administration; with the remaining funds allocated to meet outstanding technology priorities; and

WHEREAS, Mobilitie would pay the City a one-time processing fee of \$3,500 for fiber/conduit licenses issued by the City under the terms of the Master License Fiber Agreement; and

WHEREAS, the Master License Fiber Agreement also provides that Mobilitie will pay an annual license fee for each fiber/conduit license issued based on the fair market value of the rights-or-way used by Mobilitie calculated using the formula set out in Chapter 37-21(b) and 37-22 of the City's Municipal Code; and

WHEREAS, under the terms of the Master License Fiber Agreement, Mobilitie must comply with historic preservation regulations, respect the aesthetics of the downtown commercial district, comply with rights-or-way regulations, including all regulations related to trenching and boring in the rights-or-way, pay applicable rights-or-way permitting fees, coordinate its installation activities with appropriate city departments and with CPS Energy, and provide indemnity protection for the City; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The terms and conditions of the Master License Small Cell Agreement to install small cell antenna installations in the rights-of-way with Mobilitie, LLC are approved. A copy of the Master License Small Cell Agreement is attached hereto as **Exhibit A**. A copy of the fully executed agreement will be substituted for **Exhibit A** upon receipt of all signatures.

SECTION 2. The terms and conditions of the Master License Fiber Agreement to install fiber optic cable, conduit and related equipment in the rights-of-way with Mobilitie, LLC are approved. A copy of the Master License Fiber Agreement is attached hereto as **Exhibit B**. A copy of the fully executed agreement will be substituted for **Exhibit B** upon receipt of all signatures.

SECTION 3. The City’s Chief Technology Officer or his designee is authorized to execute the attached Master License Small Cell Agreement and the attached Master License Fiber Agreement, copies of which are set out in substantial form in **Exhibit A** and **Exhibit B**, and incorporated into this Ordinance for all purposes.

SECTION 4. The City’s Chief Technology Officer or his designee is authorized to execute any documents approved by the City Attorney’s Office and necessary to carry out the intent of the Ordinance.

SECTION 5. Revenue generated from the annual license fees and application fees set out in the Master License Small Cell Agreement will be deposited into the Information Technology Fund.

SECTION 6. Funds generated by the Master License Fiber Agreement approved by the ordinance will be deposited into Fund 74001000, Internal Order 209000000045 and General Ledger 4202410.

SECTION 7. The financial allocations in the ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager or the City Manager’s designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 8. This Ordinance shall become effective immediately upon its passage by eight (8) affirmative votes of the City Council. If less than eight (8) affirmative votes are received, then this Ordinance shall be effective ten (10) days after passage.

PASSED AND APPROVED this _____ day of _____, **2016.**

M A Y O R
Ivy R. Taylor

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

City Attorney