

RESOLUTION NO. 6-2011

Adopted February 1, 2011

AUTHORIZING EXECUTION OF A 9-YEAR LICENSE AGREEMENT WITH THE CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS MUNICIPAL TRANSPORTATION AGENCY ("SFMTA") FOR LONG-TERM ACCESS TO REPAIR, MAINTAIN, AND REMOVE A MONITORING SYSTEM, AS PART OF SFMTA'S CENTRAL SUBWAY EXTENSION PROJECT, ON A PORTION OF THE AGENCY'S YERBA BUENA CENTER CENTRAL BLOCK THREE PROPERTY FRONTING FOURTH STREET

BASIS FOR RESOLUTION

1. In January 2010, SFMTA started work on an extension of its Central Subway system for the T Third Line ("Central Subway Project"), which will link San Francisco's southeastern neighborhoods with neighborhoods around the South of Market (including the Moscone Center), Union Square, and Chinatown.
2. In preparation for this work, SFMTA is currently conducting underground utility relocation activities below Fourth Street, including utilities under a small portion of the Agency's Central Block Three ("CB-3") property fronting Fourth and Folsom Streets. SFMTA is also preparing for the "deep tunneling" subway construction work, which it expects to begin by 2013.
3. Over the past year, SFMTA has installed settlement monitors and related equipment ("Monitoring Systems") on certain buildings along Fourth Street. The Monitoring Systems are designed to monitor movement of other nearby buildings and/or structures that could result from construction work in utility relocation and tunneling construction areas.
4. In early 2010, SFMTA approached the Redevelopment Agency of the City and County of San Francisco (the "Agency"), the owner of the buildings housing Zeum and the Child Development Center (the "Agency Buildings") located on CB-3, for permission to install Monitoring Systems on the Agency Buildings to monitor any potential movement of nearby Clementina Towers, a senior housing project.
5. As authorized under the Agency's Permit to Enter Policy, the Agency and SFMTA entered into a one-year permit to enter (the maximum term permitted under the policy) for the installation of the Monitoring Systems on the Agency Buildings. The Monitoring Systems have been installed and the permit to enter expires on February 16, 2011. However, the Monitoring Systems must remain in place for the duration of the Central Subway Project, which is anticipated to be completed by 2020.

6. SFMTA is now seeking long-term access to the Agency Buildings to maintain, repair, and eventually remove the Monitoring Systems.
7. In support of SFMTA's Central Subway Project, staff is proposing a long-term License Agreement ("License Agreement") with SFMTA to ensure that its important monitoring activities continue without interruption. Key terms of the proposed License Agreement include:
 - a. a maximum term of 9 years (which ends in February 2020); and
 - b. access, with two-day notice, to the Agency Buildings for repair, maintenance and removal of the Monitoring Systems by SFMTA and/or its contractors and subcontractors; and
 - c. repair of Agency Buildings during the term of the License Agreement, as a result of damage related to monitoring activities and/or removal of the Monitoring Systems; and
 - d. indemnification and insurance provisions to protect the Agency from potential legal liability.
8. Agency authorization of the License Agreement will provide long-term access to the Agency Buildings for repair, maintenance, and removal of the Monitoring Systems and the information collected by the Monitoring Systems will facilitate the construction and operation of the Central Subway Project. The activities under the License Agreement would have no resultant significant impact on the physical environment, and are categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15301(a), Exterior Alterations to Existing Facilities, and 15306, Information Collection.

RESOLUTION

ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco that the Executive Director is authorized to (a) execute the License Agreement, substantially in the form lodged with the Agency General Counsel, (b) execute any and all ancillary documents necessary, and (c) take such additional action, to the extent permitted under applicable law and under the License Agreement, which the Executive Director deems appropriate and necessary to implement this Resolution.

APPROVED AS TO FORM:



JBM
James B. Morales
Agency General Counsel