

1 [Real Property License Agreement]

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3 **Resolution authorizing a City-wide 800 MHz Radio System license agreement at the VA**
4 **Medical Center, 4150 Clement Street, San Francisco for the Emergency**
5 **Communications Department.**

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7 WHEREAS, One of the Emergency Communications Department's ("ECD") eight
8 City-wide 800 MHz Radio System facilities is located on the grounds of the Department of
9 Veterans Affairs (the "VA") Medical Center; and

10 WHEREAS, The five-year term of the current license agreement between the City
11 and County of San Francisco (the "City") and the VA for the aforementioned City-wide 800
12 MHz Radio System facility expired on March 31, 2003 and has continued on a month-to-
13 month basis; and

14 WHEREAS, ECD desires to continue its operation of this facility at the VA Medical
15 Center; and

16 WHEREAS, The City and the VA have negotiated a license agreement for a term of
17 ten (10) years commencing on April 1, 2003, with two (2) five-year options to extend the
18 term, a copy of which is on file with the Clerk of the Board in File No. _____ (the
19 "License Agreement"); and

20 WHEREAS, The VA requires in the License Agreement that any disputes be first
21 submitted to the VA Contracting Officer. In the event the parties cannot amicably resolve
22 the matter, any claim arising out of or related to the License Agreement must be settled by
23 arbitration at the Department of Veterans Affairs Board of Contract Appeals in accordance
24 with procedures set forth in the Alternative Means of Dispute Resolution, VA Directive 5978
25 and Alternative Disputes Resolution Act of 1996, and the Presidential Memorandum of May

1 1, 1998. In addition, the City has the right to pursue all other available legal remedies in
2 accordance with the Federal Tort Claims Act and applicable law; and

3 WHEREAS, The License Agreement shall be governed, construed, and enforced in
4 accordance with Federal law and California law, however, in the event there is a conflict
5 between Federal and California law, Federal law will prevail; and

6 WHEREAS, On June 26, 1997, in Case No. 97.382R, the Department of City
7 Planning adopted and issued a General Plan Consistency Finding, a copy of which is on
8 file with the Clerk of the Board in File No. 172-97-53, wherein the Department of City
9 Planning found that the proposed use of the property under the License Agreement is
10 consistent with the City's General Plan and with the Eight Priority Policies under Planning
11 Code Section 101.1 and is categorically exempt from environmental review under CEQA;
12 now, therefore, be it

13 RESOLVED, That in accordance with the recommendations of the Acting Executive
14 Director of ECD and the Director of Property, the Director of Property is hereby authorized
15 on behalf of the City and County of San Francisco to enter into the License Agreement,
16 with an initial term of ten (10) years commencing on April 1, 2003 and two extension
17 options of five (5) years each, exercisable by the Director of Property, with the Department
18 of Veterans Affairs, for the premises housing the City-wide 800 MHz Radio System facility
19 located at the VA Medical Center, 4150 Clement Street, San Francisco, California, for ECD.
20 The monthly rent shall be \$3,000 during Year 1 and shall escalate three percent (3%) each
21 successive year of the initial term. The monthly rent during any extension term shall be the
22 fair market value at that time, as negotiated and agreed to by the parties at that time. The
23 City shall continue to pay for the cost of electricity; and, be it

24 FURTHER RESOLVED, That any action taken by any City employee or official with
25 respect to the License Agreement is hereby ratified and affirmed; and, be it

1 FURTHER RESOLVED, That the Director of Property shall be authorized to enter into
2 any additional amendments or modifications to the License Agreement, including without
3 limitation, exhibits or improvement specifications, that the Director of Property determines, in
4 consultation with the City Attorney, are in the best interest of the City, do not increase the rent
5 or otherwise materially increase the obligations or liabilities of the City, are necessary or
6 advisable to effectuate the purposes and intent of the License Agreement as amended or this
7 resolution, and are in compliance with all applicable laws, including City's Charter.

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RECOMMENDED:

\$36,000.00 Available from
Appropriation No.
03011 770018

Acting Executive Director
Emergency Communications Department

Controller

Director of Property