

1 [Real Property License Agreement - American Towers, LLC - 99 Moultrie]

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3 **Resolution authorizing a renewal license agreement, with retroactive effective date,**
4 **for telecommunications equipment from American Towers, LLC at 99 Moultrie for**
5 **use by the Department of Technology, the Department of Emergency Management,**
6 **the Police Department and the Municipal Transportation Agency.**

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8 WHEREAS, The City entered into a First Amendment to License Agreement for real
9 property authorized by Resolution 897-98 at 99 Moultrie, San Francisco consisting of the
10 space upon an existing tower and associated building for telecommunication purposes for
11 use by the Departments of Technology, Emergency Communications, the Police
12 Department, and other Departments, for a term commencing March 1, 1998 and self-
13 renewing annually after February 28, 2003, unless otherwise terminated by City or property
14 owner; and

15 WHEREAS, The occupant departments and the owner of the property desire to have
16 a longer term agreement with modifications to facilitate placement of additional antennas
17 upon the property, providing the City greater stability and reliance on this asset and its role
18 in the City's emergency communications network; and

19 WHEREAS, In order to provide capacity for anticipated Municipal Transportation
20 Agency radio replacement project needs, as well as potential other emergency
21 communication replacement or enhancement projects, additional equipment would be
22 necessary at the property, and a longer term commitment is required; and

23 WHEREAS, The Real Estate Division, on behalf of the occupant departments, and
24 the property owner, American Towers, LLC have determined that fair market rent for a new
25 five (5) year agreement (June 1, 2012 through May 31, 2017) to be \$2,100.00 per month

1 for the first year of the Agreement, increasing annually by four percent against the base
2 rate only of \$1,400/month for the remainder of the term; and

3 WHEREAS, the increase in rental rate proposed by the property owner is the first
4 increase in rent for the City in over fourteen years, and represents an increase of four
5 percent per year for that prior term; and

6 WHEREAS, City and American Towers, LLC's Agreement is subject to an
7 enactment of a resolution approving and authorizing the Agreement by the Board of
8 Supervisors and Mayor in their respective sole and absolute discretion; now, therefore, be it

9 RESOLVED, That in accordance with the recommendation of the Acting Director of
10 Property, the Board of Supervisors hereby approves the Renewal License Agreement to
11 extend the License term for five years commencing retroactively on June 1, 2012, on the
12 terms and conditions set forth in the Agreement, a copy of which is included in Board of
13 Supervisors File No. _____, and authorizes the Acting Director of Property to take all
14 actions, on behalf of the City and County of San Francisco as may be required in
15 furtherance of the Agreement; and be it

16 FURTHER RESOLVED, The City shall pay Base Rent of \$2,100.00 per month for
17 the initial year of the Agreement to May 31, 2013, increasing four percent annually against
18 the base rate of \$1,400/month thereafter, through May 31, 2017, inclusive of utility
19 expenses; and be it

20 FURTHER RESOLVED, That the Agreement shall include a clause mutually
21 indemnifying, holding harmless, and defending each other from and against any and all
22 claims, costs and expenses, including without limitation, reasonable attorney fees incurred
23 as a result of any default in the performance of any of its material obligations under the
24 Lease, or any negligent acts or omissions of either party, in, on or about the Premises or
25 the property on which the Premises are located, excluding those claims, costs and

1 expenses incurred as a result of the negligence or willful misconduct of either party, and
2 said indemnities shall extend back to the date City first used and occupied the Premises;
3 and be it

4 FURTHER RESOLVED, That any action taken by any City employee or official with
5 respect to this Lease is hereby ratified and affirmed; and be it

6 FURTHER RESOLVED, That the Board of Supervisors authorizes the Acting
7 Director of Property to enter into any amendments or modifications to the Agreement
8 (including without limitation, the exhibits) that the Acting Director of Property determines, in
9 consultation with the City Attorney, are in the best interest of the City, do not increase the
10 rent or otherwise materially increase the obligations or liabilities of the City, are necessary
11 or advisable to effectuate the purposes of the Agreement or this resolution, such
12 determination to be conclusively evidenced by the execution and delivery by the Acting
13 Director of Property of any amendments thereto in compliance with all applicable laws,
14 including City's Charter; and, be it

15 FURTHER RESOLVED, That City shall occupy said premises for the entire term
16 unless funds for rental payments are not appropriated in any subsequent fiscal year, at
17 which time City may terminate the Agreement with written notice to Landlord pursuant to
18 Section 3.105 of the Charter of the City and County of San Francisco.

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\$ 15,237.50 Available
Index: 770218
Sub-object: 03011

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Controller

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1 RECOMMENDED:

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John Updike
Acting Director of Property

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