

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. 120931, 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

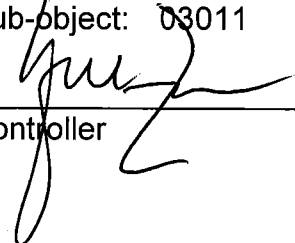
1 expenses incurred as a result of the negligence or willful misconduct of either party, and  
2 said indemnities shall extend back to the date City first used and occupied the Premises;  
3 and be it

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

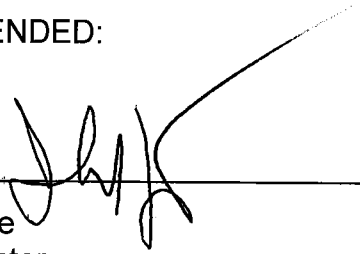
6 FURTHER RESOLVED, That the Board of Supervisors authorizes the Acting  
7 Director of Property to enter into any amendments or modifications to the Agreement  
8 (including without limitation, the exhibits) that the Acting Director of Property determines, in  
9 consultation with the City Attorney, 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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20 \$ 15,237.50 Available  
21 Index: 770218  
22 Sub-object: 03011

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24 \_\_\_\_\_  
25 Controller

1 RECOMMENDED:

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4 John Updike  
5 Acting Director  
6 Real Estate Division

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**City and County of San Francisco**

**Tails  
Resolution**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 120931

**Date Passed:** October 02, 2012

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

September 26, 2012 Budget and Finance Committee - RECOMMENDED

October 02, 2012 Board of Supervisors - ADOPTED

Ayes: 10 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Kim, Mar, Olague and Wiener

Excused: 1 - Farrell

File No. 120931

I hereby certify that the foregoing Resolution was ADOPTED on 10/2/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  
Clerk of the Board

  
Mayor  
Date Approved