

1 [Real Property License Agreement]

2

3 **Resolution authorizing, retroactive to April 1, 2003, a City-wide 800 MHz Radio System**  
4 **license agreement at the VA Medical Center, 4150 Clement Street, San Francisco for the**  
5 **Emergency Communications Department.**

6

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.

8

9 RECOMMENDED:

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

10

11

12

\_\_\_\_\_  
Acting Executive Director  
Emergency Communications Department

\_\_\_\_\_  
Controller

13

14

15

\_\_\_\_\_  
Director of Property

16

17

18

19

20

21

22

23

24

25