

File No. 190387

Committee Item No. 5

Board Item No. 5

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date May 15, 2019

Board of Supervisors Meeting

Date May 21, 2019

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER

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Completed by: Linda Wong

Date May 10, 2019

Completed by: Linda Wong

Date May 16, 2019

1 [Real Property Lease Amendment - PPF Paramount One Market Plaza Owner, L.P., One
2 Market Street - \$185,709 Initial Year]

3 **Resolution authorizing and approving the Second Amendment to Lease between PPF**
4 **Paramount One Market Plaza Owner, L.P., as landlord, and the City and County of San**
5 **Francisco, as tenant, extending the Lease until May 31, 2020, plus two five-year**
6 **options, for a portion of the roof and equipment room at One Market Street, for use by**
7 **the Department of Technology and the Municipal Transportation Agency, at an initial**
8 **annual rent of \$185,709 or the monthly base rent of \$15,475.75 with 3% annual**
9 **adjustments thereafter, and two five-year options, to commence on June 1, 2019.**

10
11 WHEREAS, The Department of Technology ("DT") and the Municipal Transportation
12 Agency ("SFMTA") have occupied space and placed equipment on a portion of the roof of the
13 building located at One Market Street, San Francisco, commonly known as the Spear Tower
14 ("Building"), for City's emergency and non-emergency communications systems since 1998
15 under a commercial "Antenna Site Lease" ("Lease"), authorized by Resolution No. 805-97
16 adopted by the Board on August 25, 1997; and

17 WHEREAS, The City is working to improve its program of public safety
18 communications and in connection with such improvements, City desires to install new and
19 additional equipment at the Building; and

20 WHEREAS, The upgrades and new equipment are necessary to complete the City's
21 larger 800mhz Emergency Telecommunications Project which will increase emergency radio
22 and cellular coverage in the City for first responders; and

23 WHEREAS, The Lease between the City and PPF Paramount One Market Plaza
24 Owner, L.P. ("Landlord"), has been on a month-to-month holdover during negotiations of the
25 Second Amendment to Lease; and

1 WHEREAS, The Real Estate Division on behalf of DT and SFMTA has negotiated a
2 Second Amendment to Lease ("Second Amendment") to allow the installation of new and
3 upgraded equipment in the current occupied space and in new space including Room #R101
4 at the Building, a copy of which is on file with the Clerk of the Board of Supervisors in File No.
5 190387 which is incorporated as if set forth fully herein; and

6 WHEREAS, The City and Landlord have negotiated a \$15,475.75 per month rent which
7 the Director of Property has opined is equal or less than fair market rent for similar
8 telecommunication space, considering all factors, occupied space on the roof and mezzanine,
9 Room #R101, Room #AMZ98, and the placement of over 20 antennas and related cabling;
10 and

11 WHEREAS, The amount of rent and occupied space does not necessitate an appraisal
12 pursuant to Administrative Code, Chapter 23; and

13 WHEREAS, Under the Second Amendment, the base monthly rent of \$15,475.75 shall
14 commence June 1, 2019, and is subject to annual adjustments of 3% thereafter; and

15 WHEREAS, The Second Amendment provides that the Lease Term shall be extended
16 to May 31, 2020; and

17 WHEREAS, The Second Amendment provides for two five-year options, the first
18 commencing on June 1, 2020; and

19 WHEREAS, All other terms remain the same as set forth in the original Lease
20 agreement; now, therefore, be it

21 RESOLVED, That in accordance with the recommendation of the Director of the
22 Department of SFMTA, the Director of Technology, the Director of Property and the Office of
23 the City Attorney, the Director of Property on behalf of the City, as Tenant, be and is hereby
24 authorized to take all actions necessary to execute the Second Amendment to Lease at One
25

1 Market Street, extending the Lease term until May 31, 2020, and subject to two five-year
2 options; and, be it

3 FURTHER RESOLVED, The monthly base rent for the extended Lease shall be
4 \$15,475.75, subject to annual adjustments of 3%, exclusive of utilities, janitorial, and debris
5 services estimated to be \$60,000 per year; and, be it

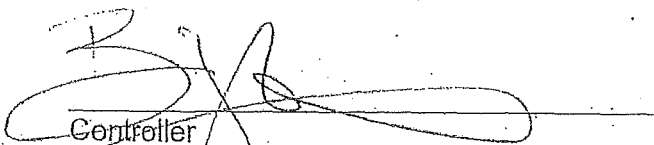
6 FURTHER RESOLVED, The Board of Supervisors approves the Second Amendment
7 to Lease in substantially the form in the Board's File and authorizes the Director of Property to
8 take all actions, on behalf of City, to enter into any amendments or modifications (including
9 without limitation, the exhibits and exercising the additional extension options pursuant to the
10 terms of the Lease) to the Lease that the Director of Property determines, in consultation with
11 the Director of the Department of Technology and the Director of the Municipal Transportation
12 Agency, and the Office of the City Attorney, are in the best interests of the City, do not
13 materially increase the obligations or liabilities of the City, and are necessary or advisable to
14 complete the transaction and effectuate the purposes and intent of this Resolution and are in
15 compliance with all applicable laws, including City's Charter; and, be it

16 FURTHER RESOLVED, That any action heretofore taken by any City employee or
17 official with respect to the exercise of the License as set forth herein is hereby approved,
18 confirmed and ratified; and, be it

19 FURTHER RESOLVED, That within 30 days of the Second Amendment to Lease
20 being fully executed by all parties, the Director of Property shall provide a copy of the Second
21 Amendment to Lease to the Clerk of the Board to include into the official file.
22
23
24
25

\$15,475.75 Available
(Rent for June 1, 2019 – June 30, 2019)

Fund ID: 28070
Department ID: 207933
PS Project ID: 10024777
Authority ID: 17582
Account ID: 530000
Activity ID: 0001

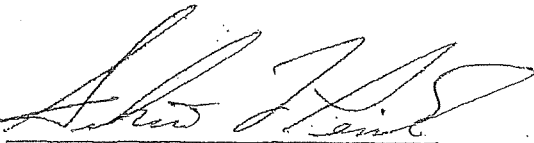

Controller
Subject to the enactment of the 2019/2020
Annual Appropriation Ordinance

RECOMMENDED:



Linda Gerull, Director, CIO
Department of Technology

RECOMMENDED:



Andrico Q. Penick *4/8/19*
Director of Property
Real Estate Division

RECOMMENDED:



Edward D. Reiskin
Director of Transportation
Municipal Transportation Agency

Department of Technology
BOARD OF SUPERVISORS

<p>Item 5 File 19-0387</p>	<p>Department: General Services Agency - Department of Technology (DOT), Real Estate Division (RED)</p>
<p>EXECUTIVE SUMMARY</p>	
<p>Legislative Objectives</p>	
<ul style="list-style-type: none"> • The proposed resolution would approve the second amendment to the lease between PPF Paramount One Market Plaza Owner, L.P. as landlord and the City as tenant, to be used for telecommunications equipment. 	
<p>Key Points</p>	
<ul style="list-style-type: none"> • The City has leased space at One Market Plaza since 1997 to install and use an 800 MHz radio system. The radio system is used for emergency communications to provide coverage for the City and used by various departments. The lease expired April 30, 2013 and has been in holdover status for six years, due to numerous delays and complications with the lease negotiations. • The San Francisco Municipal Transportation Agency (SFMTA) was added to the lease in 2015, increasing the telecommunications equipment located in the leased space. At that time, the Real Estate Division negotiated preliminary lease provisions, but never finalized the lease. • The proposed second amendment to the lease would extend the lease by one year to May 2020, and provide two five-year options to extend the lease through May 2030. 	
<p>Fiscal Impact</p>	
<ul style="list-style-type: none"> • In the initial one-year term of the lease extension, the annual rent would be \$185,709. If the options to extend are exercised, the rent would increase three percent annually. Over the full 11-year term of the lease extension, the City would pay \$2,378,523 in total rent. • The Real Estate Division determined the proposed first-year rent of \$185,709 to be fair market rent based on comparisons of other telecommunications leases in which the City is either the landlord or the tenant. The Real Estate Division requested CBRE, a commercial real estate firm, to research comparable telecommunications sites; CBRE identified one site on Market Street that had comparable rent to the rent in the proposed second amendment to the City's lease at One Market Street. 	
<p>Policy Consideration</p>	
<ul style="list-style-type: none"> • The lease has been in holdover status since 2013, a period of six years. According to Real Estate Division staff, although the Real Estate Division attempts to avoid holdovers as much as possible, it may be financially beneficial in some instances to hold over while negotiating a lease, when the holdover rent is less than what the fair market rent would be, and the landlord may be amenable to negotiating a favorable rent to the City. • However, because the Administrative Code requires Board of Supervisors approval for leases with a term of one year or more, remaining in hold over status for more than a year is not compliant with the Administrative Code. 	
<p>Recommendation</p>	
<ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

Administrative Code Section 23.27 requires Board of Supervisors approval by resolution of leases, in which the City is the tenant. The Director of Real Estate is to determine the market rent of the lease based on a review of available and relevant data.

BACKGROUND

In August 1997, the Board of Supervisors approved a lease to install and use an 800 MHz radio system on the roof of the Spear Tower at One Market Street, including occupancy of a 350 square foot radio room (Resolution 805-97). The radio system is used for emergency communications to provide coverage for the City and used by the Department of Emergency Management (DEM), San Francisco Police Department (SFPD), San Francisco Fire Department (SFFD), San Francisco Sheriff's Department (SFSD), and Department of Public Health (DPH). The lease was for a term of ten years, from May 1998 through April 2008, with two five-year options to extend through April 2018. The City's Real Estate Division exercised the first option to extend the lease through April 2013. The City originally paid \$48,000 in annual rent, adjusted annually based on the Consumer Price Index (CPI).

In March 2010, the Board of Supervisors retroactively approved the first amendment to the lease, incorporating additional telecommunications equipment that had been installed on site, for a term of four years, from July 2009 through April 2013, and increasing the annual rent to \$78,876.

The lease expired April 30, 2013 and has been in holdover status for six years. According to Ms. Claudia Gorham, Real Estate Division Deputy Managing Director, the Real Estate Division did not enter into a lease amendment to extend the lease term because of numerous delays and complications with the lease negotiations, including changes in management on both sides and changes in scope.

The San Francisco Municipal Transportation Agency (SFMTA) was added to the lease, increasing telecommunications equipment and occupying a second radio room in 2015. Due to the additional equipment, as well as the holdover status of the lease¹, the annual rent was increased to \$165,000. The rent has since increased three percent annually, to a current annual rent of \$180,300. The lease premises currently includes two 350 square foot radio rooms and 29 antennas of various types, with 23 operated by the Department of Technology (DT), on behalf of the various departments for emergency response, and six operated by SFMTA.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the second amendment to the lease between PFF Paramount One Market Plaza Owner, L.P. as landlord and the City as tenant, extending the lease by one year, from June 2019 through May 2020, with two five-year options to extend the

¹ The original lease allowed the rent to double during the holdover period. The increase in rent from \$78,876 to \$165,000 was a combination of holdover rent and added equipment and space.

lease through May 2030, and increasing the rent by 12.6 percent, from \$165,000 to \$185,709, with annual 3 percent rent increases beginning in the second year.

According to Ms. Gorham, the initial term of the lease extension is only one year because many of the provisions in the proposed second amendment to the lease were originally negotiated in 2015. At that time, the proposed extension was a five-year term, expiring in 2020. As the negotiations continued, the Real Estate Division staff strived to minimize changes to the lease provisions originally discussed in 2015 to prevent further delays.

According to Ms. Gorham, telecommunication facilities lease rents are determined by the number of equipment placed in the leased space. The Real Estate Division determined the proposed annual rent of \$185,709 to be fair market rent based on comparisons of other telecommunications leases in which the City is either the landlord or the tenant. According to Ms. Gorham, the Real Estate Division requested CBRE, a commercial real estate firm, to research comparable telecommunications sites; although most telecommunications sites have less equipment or are located in a less desirable location, CBRE identified one site on Market Street that had comparable rent to the proposed second amendment to the City's lease at One Market Street.

FISCAL IMPACT

Over the initial one-year term of the lease extension, the City would pay \$185,709 in rent. Should the City exercise the options to extend the lease, the rent would increase three percent annually. Over the total 11-year term of the lease extension, the City would pay \$2,378,523 in total rent. Annual rent paid by the City is shown in Table 1 below.

Table 1: Annual Rent Paid by City for One Market Lease

Year	Rent
Lease Year 1 (June 2019 – May 2020)	\$185,709
Lease Year 2 (June 2020 – May 2021)	191,280
Lease Year 3 (June 2021 – May 2022)	197,019
Lease Year 4 (June 2022 – May 2023)	202,929
Lease Year 5 (June 2023 – May 2024)	209,017
Lease Year 6 (June 2024 – May 2025)	215,288
Lease Year 7 (June 2025 – May 2026)	221,746
Lease Year 8 (June 2026 – May 2027)	228,399
Lease Year 9 (June 2027 – May 2028)	235,251
Lease Year 10 (June 2028 – May 2029)	242,308
Lease Year 11 (June 2029 – May 2030)	249,577
Total	\$2,378,523

According to Ms. Gorham, approximately 76 percent of the rent is paid by DT, and approximately 24 percent is paid by SFMTA.

POLICY CONSIDERATION

The lease has been in holdover status since 2013, a period of six years. According to Ms. Gorham, the Real Estate Division attempts to avoid holdovers as much as possible. However, it may be financially beneficial to hold over while negotiating a lease, when the holdover rent is less than what the fair market rent would be, and the landlord may be amenable to negotiating a favorable rent to the City. At times, a City department may need additional time to move, decide on relocating, or wait for other space to become available, and it is beneficial to remain in holdover status rather than commence a new long-term or even shorter-term lease.

According to Ms. Gorham, the location at One Market is critical for DT's telecommunications, due to the coverage it provides. It would not have been feasible to relocate antennas to avoid holdover status.

However, because the Administrative Code requires Board of Supervisors approval for leases with a term of one year or more, remaining in hold over status for more than a year is not compliant with the Administrative Code.

RECOMMENDATION

Approve the proposed resolution.

SECOND AMENDMENT TO ANTENNA SITE LEASE

THIS SECOND AMENDMENT TO ANTENNA SITE LEASE (this "**Second Amendment**") is dated for reference purposes as of April 1, 2018 (the "**Reference Date**"), by and between PPF PARAMOUNT ONE MARKET PLAZA OWNER, L.P., a Delaware limited partnership ("**Landlord**") and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**" or "**Tenant**"). Capitalized terms used herein but not defined shall have the meaning given them in the Lease (as defined below).

THIS SECOND AMENDMENT is made with reference to the following facts:

A. City and Landlord, as successor-in-interest to EOP-One Market L.L.C., a Delaware limited liability company (doing business in California as EOP-One Market LLC), are parties to that certain Antenna Site Lease, dated April 22, 1998 (the "**Initial Lease**") [also titled "**Office Lease Agreement**" on page one of the Initial Lease], pursuant to which City presently leases the premises consisting of a portion of Room #AMZ98 (the "**Premises**"), located on the mezzanine of the roof of the building located at One Market Street, San Francisco, California (the "**Building**"), and commonly known as the Spear Tower, together with certain storage space and certain locations on the roof of the Spear Tower, in order to install and operate certain Site Equipment for City's emergency and non-emergency communications system. The Initial Lease was amended by a First Amendment to Antenna Site Lease, dated as of May 3, 2010 (the "**First Amendment**"), which (1) documented the location of all then-existing Site Equipment, (2) permitted City to install additional equipment in additional locations on the roof of the Spear Tower, (3) increased the Base Rental payable under the Lease, and (4) amended the Initial Lease in certain other respects. The Initial Lease, as amended by the First Amendment and this Second Amendment shall be referred to herein as the "**Lease**."

B. City is working to improve its program of public safety communications in San Francisco, and in connection with such improvement, City desires to install certain additional equipment.

C. As of the Reference Date, City is in a month-to-month holdover status, pursuant to Section XXVII of the Initial Lease, "Holding Over". The current monthly Base Rental amount for the Premises as defined herein is \$15,025.00.

D. All rent due through March 31, 2019 has been paid or will be paid by Tenant to Landlord prior to the Second Amendment Effective Date. Landlord will invoice City monthly for the remainder of the Term (as the same is extended pursuant to Section 4 below).

E. Landlord and City now desire to further amend the Initial Lease (as already amended in the First Amendment) to (1) document additional Site Equipment, thus recasting the definition of Site Equipment, (2) permit City to install certain additional equipment in additional locations on the roof and mezzanine of the Spear Tower, including in Room #R101, and adjust the Premises accordingly, (3) increase the Base Rental payable under the Lease, (4) extend the term of the Lease through May 31, 2020, and (5) provide City with two (2) options to further extend the term of the Lease for an additional five (5) years each, all on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the matters described in the foregoing Recitals which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the City and Landlord agree as follows:

1. Additional Site Equipment.

(a) From and after the Second Amendment Effective Date, and subject to the terms and conditions of the Lease, City shall have the right to install any and all of the Site Equipment (the "Site Equipment") in Room #R101 and on the roof of the Spear Tower as displayed in **Exhibit 1** hereto and incorporated herein by reference, provided that such installations shall be made in accordance with the provisions of the Lease, including, without limitation, the provisions of Section XI.B. and the technical standards set forth in Exhibit C to the Lease.

As used in this Second Amendment, the "Premises" shall mean the locations on which the Site Equipment is installed pursuant to the terms hereof. The location of such Site Equipment shall be subject to Landlord's reasonable approval; provided, however, that Landlord agrees to take into account City's proposed operation of the Site Equipment for the Permitted Use, including, if applicable, any special requirements such as line of sight with other City facilities, and City acknowledges that the location of the Site Equipment may not interfere with any other communication or other system then installed on the roof of the Spear Tower. Landlord and City shall use good faith efforts to promptly resolve any disagreement about the designated location of the Site Equipment.

(b) **Definition of Premises.** Effective as of the Second Amendment Effective Date, the term "Premises" as used in the Lease, shall mean Room #R101E located on the mezzanine of the Spear Tower roof, East Stairwell, Room #R101W located on the mezzanine of the Spear Tower roof, West Stairwell, Room 200, 2nd level, and other locations all as specifically shown on **Exhibit 1** to this Second Amendment.

2. Base Rental for Premises. Commencing on June 1, 2019 (the "Revised Rent Commencement Date") City shall pay Rent for the Premises at the rate of Fifteen Thousand Four Hundred Seventy-Five and 75/100 Dollars (\$15,475.75) per month, in accordance with Section IV.A of the Initial Lease. If the Lease Term continues beyond the new Termination Date established pursuant to Section 4 below, commencing on June 1, 2020, the Base Rental shall be adjusted in the manner provided in Section IV.C of the Initial Lease, except that the adjusted Base Rental shall be one hundred three percent (103%) of the previous month's Base Rental, in lieu of a CPI adjustment. City acknowledges that the Revised Rent Commencement Date for the entire Premises as defined in Section 1(b) above shall be June 1, 2019, notwithstanding the Second Amendment Effective Date and notwithstanding the actual date of Landlord's delivery of any portion of the Premises, provided that there shall be an appropriate proration of Premises Base Rental if Tenant's occupancy of the Premises is delayed due to Landlord's failure to deliver any portion of the Premises within thirty (30) days after the effective date of this Second Amendment. The Base Rental shall be payable in equal consecutive monthly payments on or before the first day of each month, in advance, at the address specified for Landlord in the Basic Lease Information, or such other place as Landlord may designate in writing upon not less than

thirty (30) days' advance notice. City shall pay the Base Rental without any prior demand and without any deductions or setoff except as otherwise provided in this Lease.

3. **No Rent Reduction.** In no event shall the amount of rent payable by City under the terms of the Lease be reduced in the event City removes any item of Site Equipment, whether for obsolescence or any other reason.

4. **Extension of Term; Revised Termination Date; Options to Renew.** Landlord and City acknowledge and agree that the Lease Term shall be extended to May 31, 2020, such that the revised Termination Date shall be May 31, 2020. Additionally, Landlord and City acknowledge and agree that City shall have two (2) five (5) year options to further renew the term, commencing on the date following the revised Termination Date or June 1, 2020. The renewal process shall be pursuant to Exhibit F to the Initial Lease.

5. **Interference.** Section VI of the Initial Lease is hereby deleted and replaced with the following Section VI:

(a) City acknowledges that Landlord may grant to certain parties the right, during the Lease Term (as the same may be renewed or extended), to engage in communications activities in, on and about the roof of the Building using the Licensed Radio Frequency Spectrum or the Unlicensed Radio Frequency Spectrum, as said terms are defined below. In the event of any interference to City's Site Equipment attributable to the equipment and installations of any other persons or entities in the Building, City's priority and the priority of the other user(s) shall be determined as provided in Section VI(c) below. Landlord agrees to take commercially reasonable action to facilitate the elimination of such interference caused by equipment with lower priority than City's priority. If such interference from third parties prevents City from using some or all of its Site Equipment and such interference is not resolved within sixty (60) days following the date of delivery of notice of such interference from City to Landlord, which notice shall include reasonable supporting documentation identifying and evidencing such interference, City may, as its sole remedy, terminate this Lease with respect to the portion of the Premises on which the affected Site Equipment is located upon thirty (30) days' notice to Landlord.

(b) City installed certain Site Equipment prior to the Commencement Date and has and will continue to install and replace Site Equipment during the term of this Lease Term. City shall operate City's Site Equipment in a manner that does not interfere with: (i) the maintenance or operation of the systems and components of the Property or the Building, including, but not limited to, the roof, MATV, CATV or other video systems, HVAC systems, electronically controlled elevator systems, computers, telephone systems, or any other system serving the Building and/or its occupants; or (ii) subject to City's right to continue to operate the Site Equipment for which it has priority under this Section VI in the manner designed, the operation of any radio or telecommunications equipment installed at the Building or the Property prior to the Commencement Date or otherwise having priority over a particular item of City's Site Equipment, provided that such Prior

FCC Licensed User, as that term is defined below, is operating in accordance with its FCC license and other Applicable Law. Upon the written request of Landlord at any time during the Lease Term, but no more often than once per annum, City shall, at the City's sole cost and expense, conduct a radio frequency interference analysis of the City's Site Equipment to confirm City's Site Equipment is not causing any such impermissible interference. If any such interference in violation of this Section VI cannot be eliminated within forty-eight (48) hours after delivery to City of notice describing the interference, City agrees to cease immediately all operations of the applicable items of Site Equipment (except for testing as approved by Landlord) until the interference has been corrected to the commercially reasonable satisfaction of Landlord. City shall be responsible for all costs associated with any tests or remediation deemed necessary to resolve any and all interference for which City is responsible under this Section VI. If such interference has not been corrected within thirty (30) days after delivery to City of notice describing the interference, Landlord may require City to remove the specific items of the City's Site Equipment causing such interference. All operations by City shall be lawful and in compliance with all Applicable Law, including, but not limited to, FCC rules and regulations. City shall be responsible for all costs associated with any testing necessary to resolve any and all interference which Landlord determines or reasonably believes is being caused by the Licensee's Facilities or the Permitted Use.

(c) **Priority of Frequencies.**

- (i) **Licensed Frequencies.** As used herein, "FCC Licensed User" shall mean any licensee of Landlord at the Project, including City, which is licensed or authorized by the FCC to utilize certain bandwidths of the radio frequency spectrum ("**Licensed Radio Frequency Spectrum**") in the geographic area where the Building is located. City's priority, with respect to any Licensed Radio Frequency Spectrum utilized by City and other FCC Licensed Users, shall be determined by the date each FCC Licensed User's license with Landlord commences at the Building. Such priority shall be maintained so long as the FCC Licensed User does not change or modify its equipment that it has located at the Project or the Licensed Radio Frequency Spectrum in which it transmits and receives at the Project at the time of such commencement provided that the Prior FCC Licensed User, as that term is defined below is operating in accordance with its FCC license and other Applicable Law. The priority position of each FCC Licensed User, with respect to interference protection as described in this Section VI(a), shall be equitably adjusted if the FCC Licensed User changes its equipment or Licensed Radio Frequency Spectrum, to be determined based upon the date of such change. Under the terms of certain pre-existing agreements with one or more FCC Licensed Users at the Property (a "**Prior FCC Licensed User**"), such Prior FCC Licensed Users may be permitted to make certain modifications to their equipment or Licensed Radio Frequency Spectrum and completion of such modifications shall not result in a change to such Prior FCC

Licensed User's position with respect to priority protection from interference. For avoidance of doubt, City expressly acknowledges that Site Equipment installed in Room #R101 following the Revised Rent Commencement Date (defined in Section 2 above) may have a priority which is subordinate to the priority of previously installed Site Equipment installed in Room #AMZ98.

- (ii) **Unlicensed Frequencies.** As used herein, "FCC Unlicensed User" shall mean any licensee of Landlord at the Project, including City, that utilizes certain bandwidths of radio frequency that are not licensed by the FCC and are available for use by the general public ("Unlicensed Radio Frequency Spectrum") in the geographic area where the Building is located. Notwithstanding any other provision contained herein, the priority position among FCC Unlicensed Users shall at all times be inferior to that of FCC Licensed Users. To the extent City is operating in the Unlicensed Radio Frequency Spectrum, City's Unlicensed Radio Frequency Spectrum usage shall have no priority with respect to any other FCC Unlicensed Users pursuant to the provisions of this Lease with respect to frequency interference or congestion issues. City's rights and obligations with respect to such interference and/or congestion issues, if any, shall be determined and governed by the rules and regulations of the FCC and any other applicable regulatory authority having jurisdiction thereof. Landlord expressly disclaims any and all warranties and accepts no responsibility for management, mediation or resolution of frequency interference or congestion arising in the Unlicensed Radio Frequency Spectrum among FCC Unlicensed Users.

6. **Electromagnetic Exposure Study.** City shall, within 60 days of the completion of City's modification of the City's Site Equipment, conduct at its sole cost and expense, an Electromagnetic Exposure Study (the "Study") of the Building's rooftop, a copy of which will be presented to Landlord, to ensure that the City's Site Equipment on the Building's rooftop is in compliance with all FCC and OSHA rules and regulations for all carriers regarding Occupational Exposure as defined in the FCC document OET 65.

7. **Asbestos Notification.** Tenant acknowledges that Tenant has received the asbestos notification letter attached to this Second Amendment as Exhibit 2 hereto, disclosing the existence of asbestos in the Building. As part of Tenant's obligations under the Lease, Tenant agrees to comply with the California "Connelly Act" and other applicable Laws, including providing copies of Landlord's asbestos notification letter to all of Tenant's "employees" and "owners," who may from time to time provide services at or otherwise enter the Building, as those terms are defined in the Connelly Act and other applicable Laws.

8. **City's ACM Work.** Landlord has discovered certain ACM (Asbestos Containing Material) in trace amounts located in some floors of the Building. ACM has been found in drywall and joint compound and lead curtain hung above certain office walls. City will conduct testing in the Premises prior to the delivery of Room #R101 to City to determine whether ACM is present in similar locations therein. If ACM or other Hazardous Materials are present in Room

#R101 (whether discovered before or after delivery of Room #R101 to City), City will remove all ACM or Hazardous Materials in the Premises or Common Areas, except for fully encapsulated non-friable trace amounts of ACM permitted under applicable Laws (collectively, "City's ACM Work") and will carry out such work in compliance with applicable Laws and at City's sole cost and expense prior to delivery of Room #R101 to City, or, if the ACM or other Hazardous Materials are first discovered subsequent to delivery of Room #R101 to City, such work shall also be performed by City in coordination with the construction by City of the Leasehold Improvements). City shall perform normal ACM testing in Room #R101 as is customary pursuant to City's standard procedures and consistent with that certain redacted Limited Hazardous Materials Survey Report, prepared by Cardno ATC, dated May 21, 2014, Project Number 75.21896.0070, and shall promptly provide Landlord all reports pertaining to ACM for Room #R101 and any reports of air clearance sampling.

9. Notice Addresses. The notices addresses set forth in Section I.A.8 of the Initial Lease are hereby deleted and the following addresses are substituted therefor:

Tenant: Notices shall be sent to Tenant at the following addresses:

Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Andrico Q. Penick
Director of Property
Fax No.: (415) 552-9216

with a copy to:
Department of Technology (DT)
1 South Van Ness Avenue, 2nd Floor
San Francisco, CA 94103
Attn: CIO

and a copy to:
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attn: Real Estate and Finance Team
Fax No.: (415) 554-4755

Landlord: Notices shall be sent to Landlord at the following addresses:

PPF PARAMOUNT ONE MARKET PLAZA OWNER, L.P.
c/o PARAMOUNT GROUP, INC.
Steuart Tower, One Market Plaza, Suite 1470
San Francisco, CA 94105
Attention: Portfolio Manager

with a copy to:

PARAMOUNT GROUP, INC.

1633 Broadway, Suite 1801
New York, NY 10019
Attention: Bernard A. Marasco
Senior Vice President - Counsel, Leasing and Property
Management

10. **References.** No reference to this Second Amendment is necessary in any instrument or document at any time referring to the Lease. Any future reference to the Lease shall be deemed a reference to such document as amended hereby.

11. **Applicable Law.** This Second Amendment shall be governed by, construed and enforced in accordance with the laws of the State of California.

12. **Further Instruments.** The parties hereto agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this Second Amendment.

13. **Miscellaneous.** Except as expressly modified herein, the terms, covenants and conditions of the Lease shall remain unmodified and in full force and effect. The Lease constitutes the entire agreement of the parties concerning the subject matter hereof, and supersedes and conceals any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained herein. The execution of this Second Amendment shall not constitute a waiver of relinquishment of any rights which the City may have relating to the Lease. Landlord and City hereby ratify and confirm all of the provisions of the Lease.

14. **Effective Date of Second Amendment.** Notwithstanding anything to the contrary contained in this Second Amendment, Landlord acknowledges and agrees that no officer or employee of City has authority to commit City hereto unless and until City's Board of Supervisors shall have duly adopted a resolution approving this Second Amendment and authorizing consummation of the transaction contemplated hereby. Therefore, any obligations or liabilities of City hereunder are contingent upon adoption of such a resolution, and this Second Amendment shall be null and void unless City's Mayor and Board of Supervisors approve this Second Amendment, in their respective sole and absolute discretion, and in accordance with all applicable laws. Approval of this Second Amendment by any department, commission or agency of City shall not be deemed to imply that such resolution will be adopted nor will any such approval create any binding obligations on City. Subject to the foregoing, this Second Amendment shall become effective (the "**Second Amendment Effective Date**") on the later of: (i) the date this Second Amendment is signed by Landlord and City; (ii) the date that all rent due through March 31, 2019 as described in Recital D has been paid to Landlord; and (iii) the date the City's Mayor and Board of Supervisors approve this Second Amendment.

(Signatures on following page)

In witness whereof, the parties hereto have executed this Second Amendment as of the date written above.

LANDLORD: PPF PARAMOUNT ONE MARKET PLAZA
OWNER, L.P.
a Delaware limited partnership

By: PPF PARAMOUNT GP, LLC, a Delaware
limited liability company, its general
partner

By: _____
Name: Peter R. C. Brindley
Title: Vice President

TENANT: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
ANDRICO Q. PENICK
Its: Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Charles Sullivan
Deputy City Attorney

EXHIBIT 1 Revised Premises

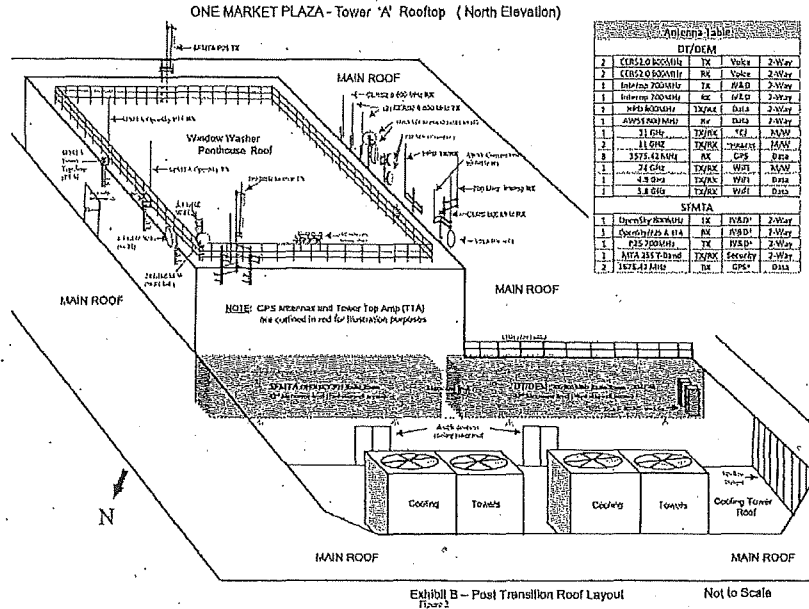


EXHIBIT 2

ASBESTOS NOTIFICATION

This Exhibit is attached to and made a part of the Lease by and between PPF PARAMOUNT ONE MARKET PLAZA OWNER, L.P., a Delaware limited partnership ("Landlord") and City of San Francisco ("City") for space in the Spear Tower in the Building located at One Market, San Francisco, California.

As you may know, asbestos, because of its insulating and fire-resistant properties, was historically used in some construction materials. California's Connolly Act, as well as federal OSHA and some other California rules, now require building owners and landlords to make certain notifications regarding known asbestos-containing materials ("ACM") and presumed ACMs ("PACM"). PACM consists of certain older construction materials that commonly contained asbestos. This Exhibit is designed to provide you with the required ACM and PACM notifications.

ACM

Our asbestos survey(s) for the Building did note the presence, location or quantity of ACM in the Building as follows: vinyl floor tile, linoleum sheeting, built-up roofing material, associated tar and transite paneling located on the cooling towers, and rope sealant around duct penetrations.

PACM

PACM consists of thermal system insulation and surfacing material found in buildings constructed prior to 1981, and asphalt or vinyl flooring installed prior to 1981. "Surfacing material" means material that is sprayed-on, troweled-on or otherwise applied to surfaces (such as acoustical plaster on ceilings and fireproofing materials on structural members, or other materials on surfaces for acoustical, fireproofing, and other purposes). Because this Building was constructed prior to 1981, PACM may be present.

The fact that our survey(s) may identify such materials as PACM does not necessarily mean that no other PACM exists in the Building. Please be advised that if any thermal system insulation, asphalt or vinyl flooring or surfacing material, of the type described above, are found to be present in the Building, such materials must be considered PACM unless properly tested and shown otherwise.

Because of the presence of ACM and the potential presence of PACM in the Building, we are providing you with the following warning, which is commonly known as a California Proposition 65 warning:

WARNING: This Building contains asbestos, a chemical known to the State of California to cause cancer.

In addition, you should be aware that there are certain potential health risks that may result from exposure to asbestos. Because we are not physicians, scientists or industrial hygienists, we have no special knowledge of the health impact of exposure to asbestos. However, we hired an environmental consulting firm to prepare an asbestos Operations and Maintenance Plan ("O&M Plan") to address asbestos matters at the Building. The O&M Plan is designed to minimize the

potential for a release of asbestos fibers and outlines a schedule of actions to be undertaken with respect to asbestos. The written O&M Plan is available for your review at our Building Management Office during regular business hours, and a copy of the O&M Plan will be provided to you upon request.

In general, the written O&M Plan describes the risks associated with asbestos exposure and how to prevent such exposure. The O&M Plan describes those risks as follows: asbestos is not a significant health concern unless asbestos fibers are released and inhaled. If inhaled, asbestos fibers can accumulate in the lungs and, as exposure increases, the risk of disease (such as asbestosis and cancer) increases. However, measures to minimize exposure and consequently minimize the accumulation of fibers, reduces the risk of adverse health effects. The O&M Plan is designed to safely manage the ACM and PACM in the Building and to avoid the inadvertent disturbance of such ACM or PACM. To that end, the O&M Plan provides for the training of building housekeeping and maintenance personnel so that they can conduct their work without causing a release of asbestos fibers. As part of the O&M Plan, we maintain records of all asbestos-related activities and the results of any asbestos survey, sampling or monitoring conducted in the Building.

The written O&M Plan describes a number of activities that should be avoided in order to prevent a release of asbestos fibers in the Building. In particular, you should be aware that some of the activities which may present a health risk by causing an airborne release of asbestos fibers include moving, drilling, boring or otherwise disturbing ACM or PACM. Consequently, such activities should not be attempted by any person not qualified to handle ACM or PACM. In other words, you must obtain the approval of Building management prior to engaging in any such activities. Please contact the Property Manager for more information in this regard. In addition, please contact the Property Manager if you notice any deterioration or disturbance of ACM or PACM. Also, note that the identification of ACM and PACM in this Exhibit is based on actual knowledge and assumptions that the law requires us to make: such materials do not necessarily comprise all asbestos in the Building.

Please be aware that you may have certain obligations under California and federal laws with regard to the ACM and PACM in the Building, including obligations to notify your own employees, contractors, subtenants, agents and others of the presence of ACM and PACM. You are solely responsible for complying with all such applicable laws. Please contact the property manager if you have any questions regarding the contents of this Exhibit.

ONE MARKET
San Francisco, California
ANTENNA SITE LEASE

BETWEEN

EOP-ONE MARKET, L.L.C.,
a Delaware limited liability company doing business in California as
EOP-One Market, LLC, a Delaware limited liability company

("LANDLORD"),

AND

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

("TENANT")

TABLE OF CONTENTS

I.	Basic Lease Information; Definitions.....	1
II.	Lease Grant.....	4
III.	Adjustment of Commencement Date/Possession.....	4
IV.	Rent.....	5
V.	Use.....	6
VI.	Interference.....	7
VII.	Compliance with Laws.....	7
VIII.	Services to be Furnished by Landlord.....	8
IX.	Leasehold Improvements and Financing.....	8
X.	Signs.....	10
XI.	Repairs and Alterations.....	10
XII.	Use of Electrical Services by Tenant.....	12
XIII.	Entry by Landlord.....	12
XIV.	Assignment and Subletting.....	13
XV.	Liens.....	13
XVI.	Indemnity and Waiver of Claims.....	14
XVII.	Tenant's Insurance.....	15
XVIII.	Landlord's Insurance.....	16
XIX.	Casualty Damage.....	17
XX.	Demolition.....	18
XXI.	Condemnation.....	18
XXII.	Events of Default.....	19
XXIII.	Remedies.....	20
XXIV.	Limitation of Liability.....	22
XXV.	No Waiver.....	22
XXVI.	Event of Bankruptcy.....	22
XXVII.	Holding Over.....	24
XXVIII.	Subordination to Mortgages; Estoppel Certificate.....	24
XXIX.	Attorneys' Fees.....	25
XXX.	Notice.....	25
XXXI.	Excepted Rights.....	26

XXXII. Tenant's Access to the Premises26
XXXIII. Surrender of Premises..... 27
XXXIV. Miscellaneous..... 27
XXXV. Entire Agreement. 30

OFFICE LEASE AGREEMENT

This Office Lease Agreement (the "Lease") is made and entered into as of the 22nd day of April, 1998, by and between EOP-ONE MARKET, L.L.C., a Delaware limited liability company doing business in California as EOP-One Market, LLC, a Delaware limited liability company ("Landlord") and CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Tenant" or "City").

I. Basic Lease Information; Definitions.

A. The following are some of the basic lease information and defined terms used in this Lease. In the event of any conflict between the information in this Section and any more specific provision of this Lease, the more specific provision shall control.

1. "Additional Base Rental" shall mean any other sums (exclusive of Base Rental) that are required to be paid by Tenant to Landlord hereunder, which sums are deemed to be additional rent under this Lease. Additional Base Rental and Base Rental are sometimes collectively referred to herein as "Rent".
2. "Base Rental" shall mean the annual sum of Forty-Eight Thousand Dollars (\$48,000) payable by Tenant to Landlord in two (2) equal installments of Twenty-Four Thousand Dollars (\$24,000), each payable on or before the first day of each April and October during the Lease Term (as defined herein).
3. "Building" shall mean the forty-three (43) story office tower, the twenty-eight (28) story office tower, the six (6) story base out of which such towers rise, the glass enclosed galleria and a portion of the ground floor of the Southern Pacific Transportation Company General Office Building, together with all appurtenant plazas, subgrade areas and garages bounded by Market, Spear, Mission and Steuart Streets in the City of San Francisco, California, known as One Market.
4. The "Commencement Date," "Lease Term" and "Termination Date" shall have the meanings set forth in subsection I.A.4.a. below:

a. The "Lease Term" or "Initial Term" shall mean a period of ten (10) years commencing May 1, 1998, ("Commencement Date"). The "Termination Date" shall, unless sooner terminated as provided herein, mean April 30, 2008. Landlord and Tenant acknowledge that the Lease Term may be extended in accordance with Exhibit F attached hereto.

5. "Premises" shall mean Room #AMZ98 located on the mezzanine of the Spear Tower roof and other locations all as specifically shown on

Exhibits A-2 through A-4 attached hereto. Landlord and Tenant hereby stipulate and agree that the "Rentable Area of the Premises" shall mean 350 square feet and the "Rentable Area of the Project" shall mean 1,460,081 square feet.

6. "Permitted Use" shall mean the operation of communication equipment for Tenant's emergency and non-emergency communication system ("City-Wide 800 MHz Radio System") for use by Tenant's employees and/or contractors and not intended for the provision of services directly to other tenants of the Building.
7. "Site Equipment" shall mean any communications equipment, including base stations, antenna(s), poles, dishes or masts, cabling or wiring and accessories used therewith approved by Landlord for installation, operation and maintenance on the Premises.
8. "Notice Addresses" shall mean the following addresses for Tenant and Landlord, respectively:

Tenant:

Notices shall be sent to Tenant at the following addresses:

Real Estate Department
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn.: Anthony J. DeLucchi
Director of Property
Fax No. (415) 552-9216

with a copy to:

Department of Telecommunications and Information Services
901 Rankin Street
San Francisco, CA 94124
Attn.: Fred Weiner
General Manager
Fax No. (415) 550-2935

with a copy to:

Office of the City Attorney
Fox Plaza
1390 Market Street, 6th Floor
San Francisco, CA 94102
Attn.: Robert A. Bryan
Deputy City Attorney
Fax No. (415) 554-3808

Landlord:

EOP-One Market, L.L.C., a Delaware limited liability company doing business in California as EOP-One Market, LLC, a Delaware limited liability company
c/o Equity Office Properties Trust
Office of the Building
One Market
Spear Street Tower, Suite 725
San Francisco, California 94105
Attention: Building Manager

With a copy to:

EOP-One Market, L.L.C., a Delaware limited liability company doing business in California as EOP-One Market, LLC, a Delaware limited liability company
c/o Equity Office Properties Trust
Two North Riverside Plaza
Suite 2200
Chicago, Illinois 60606
Attention: General Counsel for Property Operations

Payments of Rent only shall be made payable to the order of:

EQUITY OFFICE PROPERTIES

at the following address:

Equity Office Properties
DBA One Market
Department#8791
Los Angeles, CA 90084-8791

B. The following are additional definitions of some of the defined terms used in the Lease.

1. "Business Day(s)" shall mean Mondays through Fridays exclusive of the normal business holidays ("Holidays") of New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Landlord, from time to time during the Lease Term, shall have the right to designate additional Holidays, provided that such additional Holidays are commonly recognized by other office buildings in the area where the Building is located.

2. "Common Areas" shall mean those areas provided for the common use or benefit of all tenants generally and/or the public, such as corridors, elevator foyers, common mail rooms, restrooms, vending areas, lobby areas (whether at ground level or otherwise) and other similar facilities.
3. "Maximum Rate" shall mean the greatest per annum rate of interest permitted from time to time under applicable law.
4. "Normal Business Hours" for the Building shall mean 7:00 A.M. to 6:00 P.M. Mondays through Fridays, exclusive of Holidays.
5. "Project" shall mean the forty-three (43) story office tower, the twenty-eight (28) story office tower, the six (6) story base out of which such towers rise, the glass enclosed galleria and a portion of the ground floor of the Southern Pacific Transportation Company General Office Building, together with all appurtenant plazas, subgrade areas and garages bounded by Market, Spear, Mission and Steuart Streets in the City of San Francisco, California, known collectively as One Market, and the land upon which all of the foregoing is located.

II. Lease Grant.

Subject to and upon the terms herein set forth, Landlord leases to Tenant and Tenant leases from Landlord the Premises, together with the right, in common with others, to use the Common Areas.

III. Possession.

- A. By taking possession of the Premises, Tenant is deemed to have accepted the Premises and agreed that the Premises is in good order and satisfactory condition, with no representation or warranty by Landlord as to the condition of the Premises or the Building or suitability thereof for Tenant's use.
- B. If Tenant takes possession of the Premises prior to the Commencement Date, such possession shall be subject to all the terms and conditions of the Lease and Tenant shall pay Base Rental and Additional Base Rental to Landlord for each day of occupancy prior to the Commencement Date. Notwithstanding the foregoing, if Tenant, with Landlord's prior approval, takes possession of the Premises prior to the Commencement Date for the sole purpose of performing any Landlord-approved improvements therein or installing furniture, equipment or other personal property of Tenant, such possession shall be subject to all of the terms and conditions of the Lease, except that Tenant shall not be required to pay Base Rental with respect to the period of time prior to the Commencement Date during which Tenant performs such work. Tenant shall, however, be liable for the cost of any services (e.g. electricity, HVAC, freight elevators) that are provided to Tenant or the Premises during the period of

Tenant's possession prior to the Commencement Date. Nothing herein shall be construed as granting Tenant the right to take possession of the Premises prior to the Commencement Date, whether for construction, fixturing or any other purpose, without the prior consent of Landlord.

IV. Rent.

- A. Tenant covenants and agrees to pay to Landlord during the Lease Term, without any setoff or deduction whatsoever, the full amount of all Base Rental and Additional Base Rental due hereunder. In addition, Tenant shall pay and be liable for, as additional rent, all rental, sales and use taxes or other similar taxes, if any, levied or imposed on the Premises, Tenant's use of the Premises, or on the Rent payable under this Lease by any city, state, county or other governmental body having authority, such payments to be in addition to all other payments required to be paid to Landlord by Tenant under the terms and conditions of this Lease. Any such payments shall be paid concurrently with the payments of the Rent on which the tax is based. The Base Rental and any recurring monthly charges due hereunder shall be due and payable in advance on the first day of each month of April and October during the Lease Term without demand, provided that the initial installment of Base Rental shall be payable within thirty (30) days after the Commencement Date. All other items of Rent shall be due and payable by Tenant on or before ten (10) days after billing by Landlord. If the Lease Term commences on a day other than the first day of a calendar month or terminates on a day other than the last day of a calendar month, then the monthly Base Rental for such month shall be prorated for the number of days in such month occurring within the Lease Term based on a fraction, the numerator of which is the number of days of the Lease Term that fell within such calendar month and the denominator of which is thirty (30). In the event the Lease is terminated prior to the Termination Date, within thirty (30) days of such termination, Landlord shall reimburse to City any Rent paid for days occurring on and after the termination of the Lease. If the termination occurs on a day other than the first day of a calendar month, the Rent shall be prorated as described above in this Section. All such payments shall be by a good and sufficient check. No payment by Tenant or receipt or acceptance by Landlord of a lesser amount than the correct amount of Rent due under this Lease shall be deemed to be other than a payment on account of the earliest Rent due hereunder, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance or pursue any other available remedy. The acceptance by Landlord of any Rent on a date after the due date of such payment shall not be construed to be a waiver of Landlord's right to declare a default for any other late payment. Tenant's covenant to pay Rent shall be independent of every other covenant set forth in this Lease.
- B. All Rent not paid when due and payable shall bear interest from the due date (provided Tenant shall be provided with a grace period of ten (10) days) until paid at the lesser of: (1) fifteen percent (15%) per annum; or (2) the Maximum

Rate. In addition, if Tenant fails to pay any installment of Rent when due and payable hereunder (provided Tenant shall have a grace period of ten (10) days), a service fee equal to five percent (5%) of such unpaid amount will be due and payable immediately by Tenant to Landlord.

- C. On each anniversary of the Commencement Date ("Adjustment Date"), the Base Rental payable under Section IV.A shall be adjusted as follows:

The Consumer Price Index for All Urban Consumers (base years 1982-1984 = 100) for the San Francisco-Oakland-San Jose area, published by the United States Department of Labor, Bureau of Labor Statistics (the "Index"), which is published most immediately preceding the Adjustment Date (the "Adjustment Index"); shall be compared with the Index published most immediately preceding the Commencement Date in the case of the first Adjustment Date or, in the case of any subsequent Adjustment Date, the Index published most immediately preceding the prior Adjustment Date (the "Base Index").

If the Adjustment Index has increased over the Base Index, then the Base Rental payable on and after the Adjustment Date shall be set by multiplying the Base Rental by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Base Index. In no event shall the monthly Base Rental on or after the Adjustment Date be more than one hundred five percent (105%) of the monthly Base Rental in effect for the last full month immediately prior to the Adjustment Date.

If the Index is changed so that the base year differs from that used as of the date most immediately preceding the Commencement Date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

V. Use.

The Premises shall be used for the Permitted Use and for no other purpose. Tenant agrees not to use or permit the use of the Premises for any purpose which is illegal, dangerous to life, limb or property or which, in Landlord's reasonable opinion, creates a nuisance or which would increase the cost of insurance coverage with respect to the Building. Tenant shall conduct its business and control its agents, servants, contractors, employees, customers, licensees, and invitees in such a manner as not to interfere with, annoy or disturb other tenants, or in any way interfere with Landlord in the management and operation of the Building. Tenant will maintain the Premises in a clean and healthful condition, and comply with all laws, ordinances, orders, rules and regulations of any governmental entity with reference to the operation of Tenant's business and to the use, condition, configuration or occupancy of the

Premises, including without limitation, the Americans with Disabilities Act (collectively referred to as "Laws"). Tenant, within ten (10) days after receipt thereof, shall provide Landlord with copies of any notices it receives with respect to a violation or alleged violation of any Laws. Tenant will comply with the rules and regulations of the Building attached hereto as Exhibit B and such other rules and regulations adopted and altered by Landlord from time to time and will cause all of its agents, servants, contractors, employees, customers, licensees and invitees to do so. All changes to such rules and regulations will be reasonable and shall be sent by Landlord to Tenant in writing.

VI. Interference

Following complete installation of Tenant's Site Equipment, no party shall install communication equipment in the Building or allow any third party to install communication equipment in or on the Building of types and frequencies which measurably interferes with the other party's communication equipment in or on the Building. In the event of such interference, the party that installed the equipment causing the interference or allowed its installation shall take, at its sole cost and expense, all steps necessary to correct and eliminate such interference. If the interference cannot be eliminated within a reasonable period of time (not to exceed forty-eight [48] hours), the party shall immediately cease the operation of the equipment that is creating the interference (except for short tests necessary for the elimination of the interference). If Landlord installs communication equipment in the Building or allows any third party to install communication equipment in or on the Building of types and frequencies which measurably interferes with Tenant's Site Equipment for a period in excess of five (5) consecutive days, Tenant shall be entitled to receive an abatement of Base Rental payable hereunder during the period beginning on the sixth (6th) consecutive day of such interference and ending on the day when such interference is eliminated.

VII. Compliance with Laws

- A. Tenant agrees that its access to, and installation, maintenance and operation of, Tenant's Site Equipment will at all times be, at Tenant's sole cost and expense, in strict compliance with the Technical Standards attached hereto as Exhibit C, all applicable federal, state and local laws, ordinances, and regulations (including without limitation the Federal Communications Commission, Federal Aviation Agency, City Building and Fire Codes) and the rules and regulations of the Building.
- B. Tenant represents, warrants and agrees that it will conduct, at its sole cost and expense, its activities in the Building in compliance with the Technical Standards attached hereto as Exhibit C, all applicable federal, state and local laws, ordinances, and regulations (including without limitation the Federal Communications Commission, Federal Aviation Agency, City Building and Fire Codes), all applicable environmental laws, and the rules and regulations of the Building.

VIII. Services to be Furnished by Landlord.

- A. Landlord agrees to furnish Tenant the following services:
1. Maintenance and repair of all Common Areas in the manner and to the extent reasonably deemed by Landlord to be standard for buildings of similar class, size, age and location.
 2. Passenger elevator service in common with other tenants of the Building.
 3. Electricity to the Premises, in accordance with and subject to the terms and conditions set forth in Article XII of this Lease.
- B. The failure by Landlord to any extent to furnish, or the interruption or termination of, any services in whole or in part, resulting from adherence to laws, regulations and administrative orders, wear, use, repairs, improvements, alterations or any causes beyond the reasonable control of Landlord shall not render Landlord liable in any respect nor be construed as a constructive eviction of Tenant, nor give rise to an abatement of Rent, nor relieve Tenant from the obligation to fulfill any covenant or agreement hereof. Notwithstanding anything to the contrary contained in this Section VIII.B. if: (i) Landlord ceases to furnish any service in the Building for a period in excess of five (5) consecutive days after Tenant notifies Landlord of such cessation (the "Interruption Notice"); (ii) such cessation does not arise as a result of an act or omission of Tenant (iii) such cessation is not caused by a fire or other casualty (in which case Article XIX shall control); and (iv) as a result of such cessation, the Premises or a material portion thereof, is rendered untenable (meaning that Tenant is unable to use the Premises in the normal course of its business) and Tenant in fact ceases to use the Premises, or material portion thereof, then Tenant, as its sole remedy, shall be entitled to receive an abatement of Base Rental payable hereunder during the period beginning on the sixth (6th) consecutive day of such cessation and ending on the day when the service in question has been restored. In the event the entire Premises has not been rendered untenable by the cessation in service, the amount of abatement that Tenant is entitled to receive shall be prorated based upon the percentage of the Premises so rendered untenable and not used by Tenant. Should any of the equipment or machinery used in the provision of such services for any cause cease to function properly, Landlord shall use reasonable diligence to repair such equipment or machinery.
- C. Tenant expressly acknowledges that if Landlord, from time to time, elects to provide security services, Landlord shall not be deemed to have warranted the efficiency of any security personnel, service, procedures or equipment and Landlord shall not be liable in any manner for the failure of any such security personnel, services, procedures or equipment to prevent or control, or apprehend anyone suspected of personal injury, property damage or any criminal conduct in, on or around the Project.

IX. Leasehold Improvements and Financing.

- A. Any trade fixtures, unattached and movable equipment or furniture, or other personal property brought into the Premises by Tenant ("Tenant's Property") shall be owned and insured by Tenant. Tenant shall remove all such Tenant's Property from the Premises in accordance with the terms of Article XXXIII hereof. Landlord may, at any time prior to, or within sixty (60) days after, the expiration or earlier termination of this Lease or Tenant's right to possession, require Tenant to remove any alterations, additions and improvements to the Premises ("Leasehold Improvements") performed by or for the benefit of Tenant and all electronic, phone and data cabling as are designated by Landlord (the "Required Removables") at Tenant's sole cost. In the event that Landlord so elects, Tenant shall remove such Required Removables within thirty (30) days after notice from Landlord, provided that in no event shall Tenant be required to remove such Required Removables prior to the expiration or earlier termination of this Lease or Tenant's right to possession. In addition to Tenant's obligation to remove the Required Removables, Tenant shall repair any damage caused by such removal and perform such other work as is reasonably necessary to restore the Premises to a condition substantially identical to the condition of the Premises prior to installation of the Site Equipment and the Leasehold Improvements, ordinary wear and tear excepted. If Tenant fails to remove any specified Required Removables or to perform any required repairs and restoration within the time period specified above, Landlord, at Tenant's sole cost and expense, may remove, store, sell and/or dispose of the Required Removables and perform such required repairs and restoration work. Tenant, within ten (10) days after demand from Landlord, shall reimburse Landlord for any and all reasonable costs incurred by Landlord in connection with the Required Removables.
- B. Landlord acknowledges that Tenant may be financing the Site Equipment and Leasehold Improvements with lease revenue bonds secured by certain lease payments by Tenant to the City and County of San Francisco Finance Corporation (the "Finance Corporation"). Landlord agrees that Tenant may remove such Site Equipment and Leasehold Improvements from the Premises at any time during the Lease Term and within thirty (30) days after the expiration or any earlier termination of this Lease. Landlord further acknowledges and agrees that should Tenant default on any of its lease obligations to the Finance Corporation, the Finance Corporation may at any time during the Lease Term and within thirty (30) days after the expiration or any earlier termination of this Lease, remove, assign, license, or otherwise grant an interest in or use of all or any of the Site Equipment or Leasehold Improvements, subject to the terms of the Finance Corporation's agreement with Tenant and paragraphs 1 through 5 below:
1. Tenant shall furnish Landlord with a complete schedule of the Site Equipment and Leasehold Improvements financed with the Finance Corporation, which schedule shall be updated in the event of any changes.

2. The Finance Corporation may not grant a license, assignment, or grant any other interest in or use of the Site Equipment or Leasehold Improvements without the prior written consent of the Landlord. Landlord shall have no obligation to consent to the grant of any interest which may (a) impair any obligation that Landlord may have to any other tenant, service provider, or other occupant of the Building or (b) impair the value, management, operation, class or character of the Building.
3. Tenant shall cause the Finance Corporation to give Landlord notice of any public or private sale by the Finance Corporation of Tenant's Site Equipment or Leasehold Improvements.
4. No public or private sale by the Finance Corporation shall be held on the Premises or at the Project.
5. The Finance Corporation may enter the Premises for purpose of removal of the Site Equipment or Leasehold Improvements only if:
 - (a) permitted by the agreement between Landlord and the Finance Corporation;
 - (b) the Finance Corporation agrees to restore or repair all damage to the Premises caused by such removal consistent with this Lease;
 - (c) the Finance Corporation gives Landlord notice in the event that any of Tenant's Leasehold Improvements or Site Equipment are removed from the Premises; and
 - (d) the Finance Corporation indemnifies Landlord for any claim, liability or expense (including reasonable attorney's fees) arising out of or in connection with the Finance Corporation's removal of the Site Equipment or Leasehold Improvements and the Finance Corporation's entry and activities on the Premises.

X. Signs

Tenant may erect or post signs on or about the Premises subject to Landlord's prior approval. Landlord reserves the right to review the placement, design, and plan for any such sign prior to its erection or posting and agrees that the approval thereof may be withheld in Landlord's sole and absolute discretion.

XI. Repairs and Alterations.

- A. Except to the extent such obligations are imposed upon Landlord hereunder, Tenant, at its sole cost and expense, shall perform all maintenance and repairs to the Premises as are necessary to keep the same in good condition and repair throughout the entire Lease Term, reasonable wear and tear excepted. Tenant's repair and maintenance obligations with respect to the Premises shall

include, without limitation, any necessary repairs with respect to: (1) any interior partitions, (2) any doors, (3) the interior side of any demising walls, (4) any telephone and computer cabling that serves Tenant's equipment exclusively, (5) any supplemental air conditioning units, including any plumbing in connection therewith, and similar facilities serving Tenant exclusively, and (6) any alterations, additions or improvements performed by contractors retained by Tenant. All such work shall be performed in accordance with Section XI.B. below and the rules, policies and procedures for the performance of work in the Building. If Tenant fails to make any repairs within ten (10) days after notice from Landlord (provided that no prior notice shall be required in the event of an emergency), Landlord may, at its option, make such repairs, and Tenant shall pay the actual, reasonable cost thereof to the Landlord within ten (10) Business Days of demand by Landlord as Additional Base Rental (together with an administrative charge in an amount equal to ten (10) percent of the cost of such repairs), provided Landlord provides Tenant with invoices or other documentation of Landlord's costs. Landlord shall, at its expense, keep and maintain in good repair and working order and make all repairs to and perform necessary maintenance upon: (a) all structural elements of the Building; and (b) all mechanical, electrical and plumbing systems that serve the Building in general; and (c) the Building facilities common to all tenants including, but not limited to, the ceilings, walls and floors in the Common Areas.

- B. Tenant shall not make or allow to be made any alterations, additions or improvements to the Premises without first obtaining the written consent of Landlord in each such instance. Prior to commencing any such work and as a condition to obtaining Landlord's consent, Tenant must furnish Landlord with plans and specifications reasonably acceptable to Landlord; names and addresses of contractors reasonably acceptable to Landlord; copies of contracts; necessary permits and approvals; evidence of contractor's and subcontractor's insurance in accordance with Article XVII section B, hereof; and payment bond or other security, all in form and amount satisfactory to Landlord. All such improvements, alterations or additions shall be constructed in a good and workmanlike manner using Building standard materials or other new materials of equal or greater quality. Tenant may perform such improvements, alterations or additions at any time, provided such work does not disrupt tenants or occupants of the Building. Landlord shall have the right to designate reasonable rules, regulations and procedures for the performance of work in the Building. Upon completion, Tenant shall furnish "as-built" plans, contractor's affidavits and partial, or full and final waivers of lien, as applicable, in recordable form, and receipted bills covering all labor and materials. All improvements, alterations and additions shall comply with all insurance requirements, codes, ordinances, laws and regulations, including without limitation, the Americans with Disabilities Act. Tenant shall reimburse Landlord upon demand as Additional Base Rental for all reasonable sums, if any, expended by Landlord for third party examination of the architectural, mechanical, electric and plumbing plans for any alterations, additions or improvements. In addition, if Landlord so requests, Landlord shall be entitled to oversee the construction of any alterations, additions or improvements that may affect the structure of the Building or any mechanical, electrical, plumbing or life safety systems of the Building. Landlord's approval of Tenant's plans and specifications for any work performed for or on behalf of Tenant shall not be deemed to be a representation

by Landlord that such plans and specifications comply with applicable insurance requirements, building codes, ordinances, laws or regulations or that the alterations, additions and improvements constructed in accordance with such plans and specifications will be adequate for Tenant's use.

XII. Use of Electrical Services by Tenant.

Tenant shall pay (i) for the cost of installing electrical facilities required to furnish sufficient power for Tenant's Site Equipment, Tenant's use of the Premises, and Tenant's Leasehold Improvements (ii) for the cost of the installation of any separate meters, air handlers and cooling units required thereby, and (iii) the sums charged Landlord by the applicable utility for such service as reflected by such meter. Interruption in the power provided by such facilities shall not render Landlord liable in any respect for damages to either person or property nor relieve Tenant from fulfillment of any covenant or agreement hereof. If any of Tenant's Site Equipment fails because of a loss of any electrical power, and the restoration of such electrical power is within the reasonable control of Landlord, Landlord shall use reasonable diligence to restore electrical power promptly. Notwithstanding the foregoing, Landlord shall at all times be able to shut down any electrical service to the Premises and Tenant's Site Equipment in connection with any maintenance operation conducted for the Building without liability to Tenant for damages to either person or property. Landlord agrees to make a reasonable effort to schedule any such shutdown outside the Building's Normal Business Hours. Landlord also agrees to make a reasonable effort to cooperate with Tenant in obtaining temporary alternate power during scheduled maintenance operations, but shall have no obligation hereunder to provide alternate power from emergency power sources. Landlord agrees to give Tenant reasonable prior written notice of any scheduled shutdown of power by Landlord, except in emergency situations, in which event notice may be oral if notice can feasibly be given at all. Tenant may connect to the emergency generator installed by the City and County of San Francisco in the location shown on Exhibit D attached hereto and operate said generator in the event of a power failure or shutdown.

XIII. Entry by Landlord.

Landlord and its agents or representatives shall have the right to enter the Premises to inspect the same, or to show the Premises to prospective purchasers, mortgagees, tenants (during the last twelve months of the Lease Term or earlier in connection with a potential relocation) or insurers, or to clean or make repairs, alterations or additions thereto, including any work that Landlord deems necessary for the safety, protection or preservation of the Building or any occupants thereof, or to facilitate repairs, alterations or additions to the Building or any other tenants' premises. Except for any entry by Landlord in an emergency situation, Landlord shall provide Tenant with twenty-four (24) hours prior notice of any entry into Room #AMZ98 of the Premises, which notice may be given verbally. Tenant may accompany Landlord during such entry into Room #AMZ98 of the Premises. Entry by Landlord hereunder shall not constitute a constructive eviction or entitle Tenant to any abatement or reduction of Rent by reason thereof.

XIV. Assignment and Subletting.

In connection with the proposed financing of the Site Equipment and Leasehold Improvements, Tenant may be required to assign its interest under this Lease to the Finance Corporation (or similar type entity) and this corporate entity would in turn assign its rights to a bond trustee as security for Tenant's obligations with respect to such financing (collectively, "Financing Agreements"). To allow Tenant to accomplish the proposed financing, Landlord hereby irrevocably consents to all the Financing Agreements subject to the terms of this Lease, specifically including Article IX. In the event of a default of any of the lease revenue bonds issued, in whole or in part, to finance the Site Equipment or Leasehold Improvements, Tenant, the Finance Corporation (or similar entity) or bond trustee, may assign or sublet this Lease to any other user of similar sites or equipment under the terms of this Lease subject to Landlord's prior written consent, which shall not be unreasonably withheld or delayed, provided that Landlord shall have no obligation to consent to an assignment or sublease which may (i) impair any obligation that Landlord may have to any other tenant, service provider, or other occupant of the Building, or (ii) impair the value, management, operation, class or character of the Building.

Other than with respect to the Financing Agreements described above, Tenant shall not assign, sublease, transfer or encumber this Lease or any interest therein or grant any license, concession or other right of occupancy of the Premises or any portion thereof or otherwise permit the use of the Premises or any portion thereof by any party other than Tenant (any of which events is hereafter called a "Transfer") without the prior written consent of Landlord, which consent shall not be unreasonably delayed or withheld with respect to any proposed assignment or subletting.

XV. Liens.

Tenant will not permit any mechanic's liens or other liens to be placed upon the Premises or Tenant's leasehold interest therein, the Building, or the Project. Landlord's title to the Building and Project is and always shall be paramount to the interest of Tenant, and nothing herein contained shall empower Tenant to do any act that can, shall or may encumber Landlord's title. In the event any such lien does attach, Tenant shall, within five (5) days of notice of the filing of said lien, either discharge or bond over such lien to the satisfaction of Landlord and Landlord's Mortgagee (as hereinafter defined), and in such a manner as to remove the lien as an encumbrance against the Building and Project. If Tenant shall fail to so discharge or bond over such lien, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to bond over or discharge the same. Any amount paid by Landlord for any of the aforesaid purposes, including reasonable attorneys' fees (if and to the extent permitted by law) shall be paid by Tenant to Landlord on demand as Additional Base Rental. Landlord shall have the right to post and keep posted on the Premises any notices that may be provided by law or which Landlord may deem to be proper for the protection of Landlord, the Premises and the Building from such liens. Notwithstanding the foregoing, Landlord acknowledges and accepts that certain liens will be filed against the Site Equipment and Leasehold Improvements pursuant to Tenant's financing arrangement with the Finance Corporation and the bond trustee.

XVI. Indemnity and Waiver of Claims.

- A. Tenant shall indemnify, defend and hold Landlord, its members, principals, beneficiaries, partners, officers, directors, employees, Mortgagee(s) and agents, and the respective principals and members of any such agents (collectively the "Landlord Related Parties") harmless against and from all liabilities, obligations, damages, penalties, claims, costs, charges and expenses, including, without limitation, reasonable attorneys' fees and other professional fees (if and to the extent permitted by law), which may be imposed upon, incurred by, or asserted against Landlord or any of the Landlord Related Parties (collectively "Claims") and arising, directly or indirectly, out of or in connection with the use, occupancy or maintenance of the Premises by, through or under Tenant including, without limitation, any of the following: (1) any work or thing done in, on or about the Premises or any part thereof by Tenant or any of its transferees, agents, servants, contractors, employees, customers, licensees or invitees; (2) any use, non-use, possession, occupation, condition, operation or maintenance of the Premises or any part thereof; (3) any act or omission of Tenant or any of its transferees, agents, servants, contractors, employees, customers, licensees or invitees, regardless of whether such act or omission occurred within the Premises; (4) any injury or damage to any person or property occurring in, on or about the Premises or any part thereof; or (5) any failure on the part of Tenant to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease with which Tenant must comply or perform provided, however, Tenant shall not be obligated to indemnify, defend or hold harmless Landlord or Landlord Related Parties to the extent any Claim arises out of the active negligence or willful misconduct of Landlord or Landlord Related Parties. In case any action or proceeding is brought against Landlord or any of the Landlord Related Parties by reason of any of the foregoing, Tenant shall, at Tenant's sole cost and expense, resist and defend such action or proceeding with counsel approved by Landlord or, at Landlord's option, reimburse Landlord for the cost of any counsel retained directly by Landlord to defend and resist such action or proceeding.
- B. Except to the extent such losses, liabilities, obligations, damages, penalties, claims, costs, charges and expenses result from the negligence or willful misconduct of Tenant and its officers, directors, employees, agents (collectively "Tenant Related Parties"), Landlord shall indemnify and hold Tenant harmless from and against all liabilities, obligations, damages (other than consequential damages), penalties, claims, costs, charges and expenses, including, without limitation, reasonable attorneys' fees, which may be imposed upon, incurred by, or asserted against Tenant by any third parties and arising, directly or indirectly, out of or in connection with any of the following: (i) any act or omission of Landlord or any of its agents, contractors or employees in, on or around the Common Areas of the Building or any part thereof; and (ii) any injury or damage to any person or property occurring in, on or about the Common Areas of the Building or any part thereof; provided, however, that in each case such liability, obligation, damage, penalty, claim, cost, charge or expense results from the

negligence of Landlord/or its agents, employees or contractors. In case any action or proceeding is brought against Tenant or any of the Tenant Related Parties by a third party by reason of any of the foregoing, Landlord shall, at Landlord's sole cost and expense, resist and defend such action or proceeding with counsel reasonably approved by Tenant.

- C. Landlord and Landlord Related Parties shall not be liable for, and Tenant hereby waives, all claims for loss or damage to Tenant's business or damage to person or property sustained by Tenant or any person claiming by, through or under Tenant, including the Tenant Related Parties, resulting from any accident or occurrence in, on or about the Premises, the Building or the Project, including, without limitation, claims for loss, theft or damage resulting from: (1) the Premises, Building, or Project, or any equipment or appurtenances becoming out of repair; (2) wind or weather; (3) any defect in or failure to operate, for whatever reason, any sprinkler, heating or air-conditioning equipment, electric wiring, gas, water or steam pipes; (4) broken glass; (5) the backing up of any sewer pipe or downspout; (6) the bursting, leaking or running of any tank, water closet, drain or other pipe; (7) the escape of steam or water; (8) water, snow or ice being upon or coming through the roof, skylight, stairs, doorways, windows, walks or any other place upon or near the Building; (9) the falling of any fixture, plaster, tile or other material; (10) any act, omission or negligence of other tenants, licensees or any other persons or occupants of the Building or of adjoining or contiguous buildings, or owners of adjacent or contiguous property or the public, or by construction of any private, public or quasi-public work; or (11) any other cause of any nature except, as to items 1-9, where such loss or damage is due to Landlord's active negligence or willful failure to make repairs required to be made pursuant to other provisions of this Lease, after the expiration of a reasonable time after written notice to Landlord of the need for such repairs. To the maximum extent permitted by law, Tenant agrees to use and occupy the Premises, and to use such other portions of the Project as Tenant is herein given the right to use, at Tenant's own risk.

XVII. Tenant's Insurance.

- A. Landlord acknowledges that City maintains a program of self-insurance and agrees that City shall not be required to carry any third-party comprehensive general liability insurance or other insurance with respect to this Lease. City assumes the risk of damage to any of City's personal property or injury or death of any person in, upon or about the Premises at any time arising from any cause except to the extent such injury or death is caused by the negligence or willful misconduct of Landlord or its Agents.
- B. Before any repairs, alterations, additions, improvements, or construction are undertaken by or on behalf of Tenant, Tenant shall require any contractor performing work on the Premises to carry and maintain, at no expense to Landlord, in addition to Workers' Compensation Insurance as required by the jurisdiction in which the Building is located, All Risk Builder's Risk Insurance in

the amount of the replacement cost of any alterations, additions or improvements (or such other amount reasonably required by Landlord) and Commercial General Liability Insurance (including, without limitation, Contractor's Liability coverage, Contractual Liability coverage and Completed Operations coverage,) written on an occurrence basis with a minimum combined single limit of Two Million Dollars (\$2,000,000.00) and adding "the named Landlord hereunder (or any successor thereto), Equity Office Properties Trust, a Maryland real estate investment trust, EOP Operating Limited Partnership, a Delaware limited partnership, and their respective members; principals, beneficiaries, partners, officers, directors, employees, agents and any Mortgagee(s)", and other designees of Landlord as the interest of such designees shall appear, as additional insureds (collectively referred to as the "Additional Insureds").

- C. Any company writing any insurance which Tenant is required to cause to be maintained pursuant to the terms of this Lease (all such insurance being referred to as "Tenant's Contractors' Insurance"), as well as the form of such insurance, shall at all times be subject to Landlord's reasonable approval, and each such insurance company shall have an A.M. Best rating of "A-" or better and shall be licensed and qualified to do business in the state in which the Premises is located. All policies evidencing Tenant's Contractors' Insurance (except for Workers' Compensation Insurance) shall specify Tenant as named insured and the Additional Insureds as additional insureds.
- D. Tenant shall not do or fail to do anything in, upon or about the Premises which will: (1) violate the terms of any of Landlord's insurance policies; (2) prevent Landlord from obtaining policies of insurance acceptable to Landlord or any Mortgagees; or (3) result in an increase in the rate of any insurance on the Premises, the Building, any other property of Landlord or of others within the Building provided Landlord uses reasonable efforts to advise Tenant of any possible violation of Landlord's insurance policies resulting from any use or activity authorized under this Lease to the extent, if at all, that Landlord has actual knowledge of such possible violation. In the event of the occurrence of any of the events set forth in this Section, Tenant shall pay Landlord upon demand, as Additional Base Rental, the cost of the amount of any increase in any such insurance premium, provided that the acceptance by Landlord of such payment shall not be construed to be a waiver of any rights by Landlord in connection with a default by Tenant under the Lease.

XVIII. Landlord's Insurance.

Landlord shall maintain property insurance on the Building in such amounts as Landlord reasonably elects. Payments for losses and recoveries thereunder shall be made solely to Landlord or the Mortgagees of Landlord as their interests shall appear. Landlord hereby waives any rights against City for loss or damage to the Premises or other parts of the Building to the extent covered by Landlord's property insurance.

XIX. Casualty Damage.

- A. If the Premises or any part thereof shall be damaged by fire or other casualty, Tenant shall give prompt written notice thereof to Landlord. In case the Building shall be so damaged that in Landlord's reasonable judgment, substantial alteration or reconstruction of the Building shall be required (whether or not the Premises has been damaged by such casualty) or in the event Landlord will not be permitted by applicable law to rebuild the Building in substantially the same form as existed prior to the fire or casualty or in the event the Premises has been materially damaged and there is less than two (2) years of the Lease Term remaining on the date of such casualty or in the event any Mortgagee should require that the insurance proceeds payable as a result of a casualty be applied to the payment of the mortgage debt or in the event of any material uninsured loss to the Building, Landlord may, at its option, terminate this Lease by notifying Tenant in writing of such termination as soon as reasonably possible (taking into consideration all delays such as adjustment of insurance claims and obtaining approval from Landlord mortgagee(s), but in all circumstances within ninety (90) days after the date of such casualty. Notwithstanding the foregoing, Landlord will not be entitled to terminate this Lease solely because there is less than two (2) years on the Lease Term if Tenant has an exercisable right to renew or extend the Lease Term and Tenant, within ten (10) days after receipt of Landlord's notice of termination, validly exercises such right. The foregoing shall not prohibit Landlord from exercising its right to terminate for any of the other reasons set forth herein. Such termination shall be effective as of the date of fire or casualty, with respect to any portion of the Premises that was rendered untenable, and the effective date of termination specified in Landlord's notice, with respect to any portion of the Premises that remained tenable. In addition to Landlord's rights to terminate as provided herein, Tenant shall have the right to terminate this Lease if: (1) a substantial portion of the Premises or reasonable means of access thereto has been damaged by fire or other casualty and such damage cannot reasonably be repaired within sixty (60) days after the date of such fire or other casualty; (2) there is less than two (2) years of the Lease Term remaining on the date of such casualty; (3) the casualty was not caused by the negligence or willful misconduct of Tenant or its agents, employees or contractors; and (4) Tenant provides Landlord with written notice of its intent to terminate within forty-five (45) days after the date of the fire or other casualty. If neither Landlord nor Tenant elects to terminate this Lease, Landlord shall commence and proceed with reasonable diligence to restore the Building (provided that Landlord shall not be required to restore any unleased premises in the Building) and the Leasehold Improvements (but excluding any improvements, alterations or additions made by Tenant in violation of this Lease) located within the Premises, if any, which Landlord has insured to substantially the same condition they were in immediately prior to the happening of the casualty. Notwithstanding the foregoing, Landlord's obligation to restore the Building, and the Leasehold Improvements, if any, shall not require Landlord to expend for such repair and restoration work more than the insurance proceeds actually received by the Landlord as a result of the casualty, provided that if Landlord does not have sufficient proceeds to substantially complete the

restoration of the Leasehold Improvements in the Premises and Landlord elects not to fund any shortfall, Landlord shall so notify Tenant and Tenant, within fifteen (15) business days thereafter, shall have the right to terminate this Lease by the giving of written notice to Landlord. When repairs to the Premises have been completed by Landlord, Tenant shall complete the restoration or replacement of all Tenant's Property necessary to permit Tenant's reoccupancy of the Premises, and Tenant shall present Landlord with evidence satisfactory to Landlord of Tenant's ability to pay such costs prior to Landlord's commencement of repair and restoration of the Premises. Landlord shall not be liable for any inconvenience or annoyance to Tenant or injury to the business of Tenant resulting in any way from such damage or the repair thereof, except that, subject to the provisions of the next sentence, Landlord shall allow Tenant a fair diminution of Rent on a per diem basis during the time and to the extent any damage to the Premises causes the Premises to be rendered untenantable and not used by Tenant. If the Premises or any other portion of the Building is damaged by fire or other casualty resulting from the gross negligence or willful misconduct of Tenant or any Tenant Related Parties, the Rent hereunder shall not be diminished during any period during which the Premises, or any portion thereof, is untenantable (except to the extent Landlord is entitled to be reimbursed by the proceeds of any rental interruption insurance), and Tenant shall not be entitled to exercise any rights of termination provided in this Article XIX. Landlord and Tenant hereby waive the provisions of any law from time to time in effect during the Lease Term relating to the effect upon leases of partial or total destruction of leased property. Landlord and Tenant agree that their respective rights in the event of any damage to or destruction of the Premises shall be those specifically set forth herein.

XX. Demolition.

Landlord shall have the right to terminate this Lease Agreement if Landlord proposes or is required, for any reason, to remodel, remove, or demolish the Building or any substantial portion thereof materially affecting the Premises or access to the Premises. Such cancellation shall be exercised by Landlord by the service of not less than ninety (90) days' written notice of such termination. Such notice shall set forth the date upon which the termination will be effective. No money or other consideration shall be payable by Landlord to Tenant for Landlord's exercise of this right, and the right is hereby reserved to Landlord and all purchasers, successors, assigns, transferees, and ground tenants of Landlord, as the case may be, and is in addition to all other rights of Landlord. Tenant has read the foregoing and understands that Landlord has a right to terminate this Lease as provided above.

XXI. Condemnation.

If (a) the whole or any substantial part of the Premises or (b) any portion of the Building or Project which would leave the Premises unsuitable for use as a communications site comparable to its use on the Commencement Date, shall be taken or condemned for any

public or quasi-public use under governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, then Landlord may, at its option, terminate this Lease effective as of the date the physical taking of said Premises or said portion of the Building or Project shall occur. In the event this Lease is not terminated, the Rentable Area of the Project and the Rentable Area of the Premises shall be appropriately adjusted. In addition, Rent for any portion of the Premises so taken or condemned shall be abated during the unexpired term of this Lease effective when the physical taking of said portion of the Premises shall occur. All compensation awarded for any such taking or condemnation, or sale proceeds in lieu thereof, shall be the property of Landlord, and Tenant shall have no claim thereto, the same being hereby expressly waived by Tenant, except for any portions of such award or proceeds which are specifically allocated by the condemning or purchasing party for Tenant's relocation expenses, or the taking of or damage to trade fixtures or other personal property of Tenant which Tenant specifically reserves to itself. In addition, Tenant may file a claim at its sole cost and expense and receive an award for the Tenant's Site Equipment, Leasehold Improvements, interruption of or damage to Tenant's operation on the Premises, and Tenant's reasonable relocation expenses, provided the filing of any claim does not adversely affect or diminish the award which would otherwise have been received by Landlord had Tenant not filed such a claim and received such award.

XXII. Events of Default.

The following events shall be deemed to be events of default under this Lease:

- A. Tenant or the Finance Corporation shall fail to pay when due any Base Rental, Additional Base Rental or other Rent under this Lease and such failure shall continue for three (3) days after written notice from Landlord (hereinafter sometimes referred to as a "Monetary Default").
- B. Any failure by Tenant (other than a Monetary Default) to comply with any term, provision or covenant of this Lease, including, without limitation, the rules and regulations, which failure is not cured by Tenant or the Finance Corporation within ten (10) days after delivery to Tenant of notice of the occurrence of such failure, provided that if any such failure creates a hazardous condition, such failure must be cured immediately. Notwithstanding the foregoing, if Tenant fails to comply with any particular provision or covenant of this Lease, including, without limitation, Tenant's obligation to pay Rent when due, on three (3) occasions during any twelve (12) month period, any subsequent violation of such provision or covenant shall be considered to be an incurable default by Tenant.
- C. Tenant shall become insolvent, or shall make a transfer in fraud of creditors, or shall commit an act of bankruptcy or shall make an assignment for the benefit of creditors, or Tenant shall admit in writing its inability to pay its debts as they become due.
- D. Tenant shall file a petition under any section or chapter of the United States

Bankruptcy Code, as amended, pertaining to bankruptcy, or under any similar law or statute of the United States or any State thereof, or Tenant shall be adjudged bankrupt or insolvent in proceedings filed against Tenant thereunder; or a petition or answer proposing the adjudication of Tenant as a debtor or its reorganization under any present or future federal or state bankruptcy or similar law shall be filed in any court and such petition or answer shall not be discharged or denied within sixty (60) days after the filing thereof.

- E. A receiver or trustee shall be appointed for all or substantially all of the assets of Tenant or of the Premises or of any of Tenant's Property located thereon in any proceeding brought by Tenant, or any such receiver or trustee shall be appointed in any proceeding brought against Tenant and shall not be discharged within sixty (60) days after such appointment or Tenant shall consent to or acquiesce in such appointment.
- F. The leasehold estate hereunder shall be taken on execution or other process of law or equity in any action against Tenant.
- G. Tenant shall abandon or vacate any substantial portion of the Premises without the prior written permission of Landlord.
- H. The liquidation, termination, dissolution, forfeiture of right to do business, or death of Tenant or any Guarantor.

XXIII. Remedies.

- A. Upon the occurrence of any event or events of default under this Lease, whether enumerated in Article XXII or not, Landlord shall have the option to pursue any one or more of the following remedies without any notice (except as expressly prescribed herein) or demand whatsoever (and without limiting the generality of the foregoing, Tenant hereby specifically waives notice and demand for payment of Rent or other obligations and waives any and all other notices or demand requirements imposed by applicable law):
 - 1. Terminate this Lease and Tenant's right to possession of the Premises and recover from Tenant an award of damages equal to the sum of the following:
 - (a) The Worth at the Time of Award of the unpaid Rent which had been earned at the time of termination;
 - (b) The Worth at the Time of Award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such Rent loss that

Tenant affirmatively proves could have been reasonably avoided;

- (c) The Worth at the Time of Award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of such Rent loss that Tenant affirmatively proves could be reasonably avoided;
- (d) Any other amount necessary to compensate Landlord for all the detriment either proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom; and
- (e) All such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time under applicable law.

The "Worth at the Time of Award" of the amounts referred to in parts (a) and (b) above, shall be computed by allowing interest at the rate specified in Section IV.E, and the "Worth at the Time of Award" of the amount referred to in part (c), above, shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%);

- 2. Employ the remedy described in California Civil Code § 1951.4 (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover Rent as it becomes due, if Tenant has the right to sublet or assign, subject only to reasonable limitations); or
- 3. Notwithstanding Landlord's exercise of the remedy described in California Civil Code § 1951.4 in respect of an event or events of default, at such time thereafter as Landlord may elect in writing, to terminate this Lease and Tenant's right to possession of the Premises and recover an award of damages as provided above in part 1.

B. The subsequent acceptance of Rent hereunder by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such Rent. No waiver by Landlord of any breach hereof shall be effective unless such waiver is in writing and signed by Landlord.

C. TENANT HEREBY WAIVES ANY AND ALL RIGHTS CONFERRED BY SECTION 3275 OF THE CIVIL CODE OF CALIFORNIA AND BY SECTIONS 1174(c) AND 1179 OF THE CODE OF CIVIL PROCEDURE OF CALIFORNIA AND ANY AND ALL OTHER LAWS AND RULES OF LAW FROM TIME TO TIME IN EFFECT DURING THE LEASE TERM PROVIDING THAT TENANT SHALL HAVE ANY RIGHT TO REDEEM, RESINTATE OR RESTORE THIS

LEASE FOLLOWING ITS TERMINATION BY REASON OF TENANT'S BREACH.

- D. No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder or now or hereafter existing by agreement, applicable law or in equity. In addition to other remedies provided in this Lease, Landlord shall be entitled, to the extent permitted by applicable law, to injunctive relief, or to a decree compelling performance of any of the covenants, agreements, conditions or provisions of this Lease, or to any other remedy allowed to Landlord at law or in equity. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default.
- E. This Article XXIII shall be enforceable to the maximum extent such enforcement is not prohibited by applicable law, and the unenforceability of any portion thereof shall not thereby render unenforceable any other portion.

XXIV. LIMITATION OF LIABILITY.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, THE LIABILITY OF LANDLORD (AND OF ANY SUCCESSOR LANDLORD HEREUNDER) TO TENANT SHALL BE LIMITED TO THE INTEREST OF LANDLORD IN THE BUILDING, AND TENANT AGREES TO LOOK SOLELY TO LANDLORD'S INTEREST IN THE BUILDING FOR THE RECOVERY OF ANY JUDGMENT OR AWARD AGAINST THE LANDLORD, IT BEING INTENDED THAT NEITHER LANDLORD NOR ANY MEMBER, PRINCIPAL, PARTNER, SHAREHOLDER, OFFICER, DIRECTOR OR BENEFICIARY OF LANDLORD SHALL BE PERSONALLY LIABLE FOR ANY JUDGMENT OR DEFICIENCY. TENANT HEREBY COVENANTS THAT, PRIOR TO THE FILING OF ANY SUIT FOR AN ALLEGED DEFAULT BY LANDLORD HEREUNDER, IT SHALL GIVE LANDLORD AND ALL MORTGAGEES WHOM TENANT HAS BEEN NOTIFIED HOLD MORTGAGES OR DEED OF TRUST LIENS ON THE PROJECT, BUILDING OR PREMISES NOTICE AND REASONABLE TIME TO CURE SUCH ALLEGED DEFAULT BY LANDLORD.

XXV. No Waiver.

Failure of Landlord to declare any default immediately upon its occurrence, or delay in taking any action in connection with an event of default shall not constitute a waiver of such default, nor shall it constitute an estoppel against Landlord, but Landlord shall have the right to declare the default at any time and take such action as is lawful or authorized under this Lease. Failure by Landlord to enforce its rights with respect to any one default shall not constitute a waiver of its rights with respect to any subsequent default. Receipt by Landlord of Tenant's keys to the Premises shall not constitute an acceptance or surrender of the Premises.

XXVI. Event of Bankruptcy.

In addition to, and in no way limiting the other remedies set forth herein, Landlord and Tenant agree that if Tenant ever becomes the subject of a voluntary or involuntary bankruptcy, reorganization, composition, or other similar type proceeding under the federal bankruptcy

laws, as now enacted or hereinafter amended, then:

- A. "Adequate protection" of Landlord's interest in the Premises pursuant to the provisions of Section 361 and 363 (or their successor sections) of the Bankruptcy Code, 11 U.S.C. Section 101 et seq., (such Bankruptcy Code as amended from time to time being herein referred to as the "Bankruptcy Code"), prior to assumption and/or assignment of the Lease by Tenant shall include, but not be limited to all (or any part) of the following:
1. the continued payment by Tenant of the Base Rental and all other Rent due and owing hereunder and the performance of all other covenants and obligations hereunder by Tenant;
 2. the furnishing of an additional/new security deposit by Tenant in the amount of three (3) times the then current monthly Base Rental.
- B. "Adequate assurance of future performance" by Tenant and/or any assignee of Tenant pursuant to Bankruptcy Code Section 365 will include (but not be limited to) payment of an additional/new Security Deposit in the amount of three (3) times the then current monthly Base Rental payable hereunder.
- C. Any person or entity to which this Lease is assigned pursuant to the provisions of the Bankruptcy Code, shall be deemed without further act or deed to have assumed all of the obligations of Tenant arising under this Lease on and after the effective date of such assignment. Any such assignee shall, upon demand by Landlord, execute and deliver to Landlord an instrument confirming such assumption of liability.
- D. Notwithstanding anything in this Lease to the contrary, all amounts payable by Tenant to or on behalf of the Landlord under this Lease, whether or not expressly denominated as "Rent," shall constitute "rent" for the purposes of Section 502(b) (6) of the Bankruptcy Code.
- E. If this Lease is assigned to any person or entity pursuant to the provisions of the Bankruptcy Code, any and all monies or other considerations payable or otherwise to be delivered to Landlord (including Base Rentals and other Rent hereunder), shall be and remain the exclusive property of Landlord and shall not constitute property of Tenant or of the bankruptcy estate of Tenant. Any and all monies or other considerations constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust by Tenant or Tenant's bankruptcy estate for the benefit of Landlord and shall be promptly paid to or turned over to Landlord.
- F. If Tenant assumes this Lease and proposes to assign the same pursuant to the provisions of the Bankruptcy Code to any person or entity who shall have made a bona fide offer to accept an assignment of this Lease on terms acceptable to the Tenant, then notice of such proposed offer/assignment, setting forth: (1) the name and address of such person or entity, (2) all of the terms and conditions of such offer, and (3) the adequate assurance to be provided Landlord to assure such person's or entity's future performance under the Lease, shall be given to Landlord by Tenant no later than twenty (20) days after receipt by Tenant, but in

any event no later than ten (10) days prior to the date that Tenant shall make application to a court of competent jurisdiction for authority and approval to enter into such assumption and assignment, and Landlord shall thereupon have the prior right and option, to be exercised by notice to Tenant given at any time prior to the effective date of such proposed assignment, to accept an assignment of this Lease upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such persons or entity, less any brokerage commission which may be payable out of the consideration to be paid by such person for the assignment of this Lease.

- G. To the extent permitted by law, Landlord and Tenant agree that this Lease is a contract under which applicable law excuses Landlord from accepting performance from (or rendering performance to) any person or entity other than Tenant within the meaning of Sections 365(c) and 365(e) (2) of the Bankruptcy Code.

XXVII. Holding Over.

In the event of holding over by Tenant after expiration or other termination of this Lease or in the event Tenant continues to occupy the Premises after the termination of Tenant's right of possession pursuant to Article XXII and XXIII hereof, occupancy of the Premises subsequent to such termination or expiration shall be that of a tenancy at sufferance and in no event for month-to-month or year-to-year, but Tenant shall, throughout the entire holdover period, be subject to all the terms and provisions of this Lease and shall pay for its use and occupancy an amount (on a per month basis without reduction for any partial months during any such holdover) equal to 150% of the Base Rental and Additional Base Rental due for the period immediately preceding such holding over. Notwithstanding the foregoing, if such holding over continues for more than thirty (30) days, effective as of the thirty-first (31st) day, holdover rent shall increase to 200% of the sum of the Base Rental and Additional Base Rental due for the period immediately preceding such holding over; provided that in no event shall Base Rental and Additional Base Rental during the holdover period be less than the fair market rental for the Premises. No holding over by Tenant or payments of money by Tenant to Landlord after the expiration of the term of this Lease shall be construed to extend the Lease Term or prevent Landlord from recovery of immediate possession of the Premises by summary proceedings or otherwise. In addition to the obligation to pay the amounts set forth above during any such holdover period, Tenant also shall be liable to Landlord for all damage, including any consequential damage, which Landlord may suffer by reason of any holding over by Tenant, and Tenant shall indemnify Landlord against any and all claims made by any other tenant or prospective tenant against Landlord for delay by Landlord in delivering possession of the Premises to such other tenant or prospective tenant.

XXVIII. Subordination to Mortgages; Estoppel Certificate.

Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust, ground lease or other lien presently existing or hereafter arising upon the Premises, or upon the Building and/or the Project and to any renewals, modifications, refinancings and extensions thereof (any such mortgage, deed of trust, lease or other lien being hereinafter

referred to as a "Mortgage", and the person or entity having the benefit of same being referred to hereinafter as a "Mortgagee"), but Tenant agrees that any such Mortgagee shall have the right at any time to subordinate such Mortgage to this Lease on such terms and subject to such conditions as such Mortgagee may deem appropriate in its discretion. This clause shall be self-operative and no further instrument of subordination shall be required. However, Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any Mortgage, and Tenant agrees upon demand to execute such further instruments subordinating this Lease, acknowledging the subordination of this Lease or attorning to the holder of any such Mortgage as Landlord may request. The terms of this Lease are subject to approval by the Landlord's existing lender(s) and any lender(s) who, at the time of the execution of this Lease, have committed or are considering committing to Landlord to make a loan secured by all or any portion of the Project, and such approval is a condition precedent to Landlord's obligations hereunder. If any person shall succeed to all or part of Landlord's interests in the Premises whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease or otherwise, and if and as so requested or required by such successor-in-interest, Tenant shall, without charge, attorn to such successor-in-interest. Tenant agrees that it will from time to time upon request by Landlord and, within five (5) days of the date of such request, execute and deliver to such persons as Landlord shall request an estoppel certificate or other similar statement in recordable form certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), stating the dates to which Rent and other charges payable under this Lease have been paid, stating that Landlord is not in default hereunder (or if Tenant alleges a default stating the nature of such alleged default) and further stating such other matters as Landlord shall reasonably require.

XXIX. Attorneys' Fees.

In the event that Landlord should retain counsel and/or institute any suit against Tenant for violation of or to enforce any of the covenants or conditions of this Lease, or should Tenant institute any suit against Landlord for violation of any of the covenants or conditions of this Lease, or should either party intervene in any suit in which the other is a party to enforce or protect its interest or rights hereunder, the prevailing party in any such suit shall be entitled to all of its costs, expenses and reasonable fees of its attorney(s) (if and to the extent permitted by law) in connection therewith.

XXX. Notice.

Whenever any demand, request, approval, consent or notice ("Notice") shall or may be given to either of the parties by the other, each such Notice shall be in writing and shall be sent by registered or certified mail with return receipt requested, or sent by overnight courier service (such as Federal Express) at the respective addresses of the parties for notices as set forth in Section I.A.10. of this Lease, provided that if Tenant has vacated the Premises or is in default of this Lease Landlord may serve Notice by any manner permitted by law. Any Notice under this Lease delivered by registered or certified mail shall be deemed to have been given, delivered, received and effective on the earlier of (a) the third day following the day on which the same shall have been mailed with sufficient postage prepaid or (b) the delivery date indicated on the return receipt. Notice sent by overnight courier service shall be deemed given,

delivered, received and effective upon the day after such notice is delivered to or picked up by the overnight courier service. Either party may, at any time, change its Notice Address by giving the other party Notice stating the change and setting forth the new address.

XXXI. Excepted Rights.

This Lease does not grant any rights to light or air over or about the Building. Landlord specifically excepts and reserves to itself the use of any roofs except for the Premises, the exterior portions of the Premises, all rights to the land and improvements below the improved floor level of the Premises, the improvements and air rights above the Premises and the improvements and air rights located outside the demising walls of the Premises, and such areas within the Premises as are required for installation of utility lines and other installations required to serve any occupants of the Building and the right to maintain and repair the same, and no rights with respect thereto are conferred upon Tenant unless otherwise specifically provided herein. Landlord further reserves to itself the right from time to time: (a) to change the Building's name or street address; (b) to install, fix and maintain signs on the exterior and interior of the Building; (c) to designate and approve window coverings; (d) to make any decorations, alterations, additions, improvements to the Building, or any part thereof (including the Premises) which Landlord shall desire, or deem necessary for the safety, protection, preservation or improvement of the Building, or as Landlord may be required to do by law; (e) to have access to the Premises to perform its duties and obligations and to exercise its rights under this Lease; (f) to retain at all times and to use pass-keys to all locks within and into the Premises; (g) to approve the weight, size, or location of heavy equipment, or articles in and about the Premises; (h) to close or restrict access to the Building at all times other than Normal Business Hours subject to Tenant's right to admittance at all times under such regulations as Landlord may prescribe from time to time, or to close (temporarily or permanently) any of the entrances to the Building; (i) to change the arrangement and/or location of entrances of passageways, doors and doorways, corridors, elevators, stairs, toilets and public parts of the Building; (j) if Tenant has vacated the Premises during the last six (6) months of the Lease Term, to perform additions, alterations and improvements to the Premises in connection with a reletting or anticipated reletting thereof without being responsible or liable for the value or preservation of any then existing improvements to the Premises; and (k) to grant to anyone the exclusive right to conduct any business or undertaking in the Building. Landlord, in accordance with Article XIII hereof, shall have the right to enter the Premises in connection with the exercise of any of the rights set forth herein and such entry into the Premises and the performance of any work therein shall not constitute a constructive eviction or entitle Tenant to any abatement or reduction of Rent by reason thereof.

XXXII. Tenant's Access to the Premises.

Landlord hereby grants to Tenant during the Lease Term and for the limited purposes and subject to the terms and conditions set forth below, a nonexclusive license in and over the following common areas of the Building to the Premises: areas providing physical access by personnel and equipment including ramps, elevators, loading docks, walkways, staircases, and ladders; and the roof of the Building on which Tenant's equipment is installed. The License granted to Tenant under this Article XXXII is for the sole purpose of constructing, maintaining, restoring, replacing and operating Tenant's equipment located on the Premises, including any

necessary electrical and telephone conduits, in accordance with the use permitted under this Lease. Such rights shall include the right of ingress and egress through the Building during non-business hours for access to or from the Premises, provided that Tenant shall notify the Property Manager, or such other person as designated by Landlord, at least 24 hours in advance of any access and shall comply with all reasonable requirements of such designated person with respect to Tenant's requested access. In the event of a public emergency, Tenant shall have the right to enter the Premises provided it makes good faith efforts if possible to notify Landlord in advance of such entry.

XXXIII. Surrender of Premises.

At the expiration or earlier termination of this Lease or Tenant's right of possession hereunder, Tenant shall remove all Tenant's Property from the Premises, remove all Required Removables designated by Landlord and quit and surrender the Premises to Landlord, broom clean, and in good order, condition and repair, ordinary wear and tear excepted. If Tenant fails to remove any of Tenant's Property within thirty (30) days after the termination of this Lease or Tenant's right to possession hereunder, Landlord, at Tenant's sole cost and expense, shall be entitled to remove and/or store such Tenant's Property and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay Landlord, upon demand, any and all expenses caused by such removal and all storage charges against such property so long as the same shall be in the possession of Landlord or under the control of Landlord. In addition, if Tenant fails to remove any Tenant's Property from the Premises or storage, as the case may be, within thirty (30) days after written notice from Landlord, Landlord, at its option, may deem all or any part of such Tenant's Property to have been abandoned by Tenant and title thereof shall immediately pass to Landlord.

XXXIV. Miscellaneous.

- A. If any term or provision of this Lease, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforced to the fullest extent permitted by law. This Lease represents the result of negotiations between Landlord and Tenant, each of which has been (or has had opportunity to be) represented by counsel of its own selection, and neither of which has acted under duress or compulsion, whether legal, economic or otherwise. Consequently, Landlord and Tenant agree that the language in all parts of the Lease shall in all cases be construed as a whole according to its fair meaning and neither strictly for nor against Landlord or Tenant.
- B. Tenant agrees not to record this Lease or any memorandum hereof without Landlord's prior written consent.
- C. This Lease and the rights and obligations of the parties hereto shall be interpreted, construed, and enforced in accordance with the laws of the state in which the Building is located.

- D. Events of "Force Majeure" shall include strikes, riots, acts of God, shortages of labor or materials, war, governmental law, regulations or restrictions and any other cause whatsoever that is beyond the control of Landlord. Whenever a period of time is herein prescribed for the taking of any action by Landlord, Landlord shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to events of Force Majeure.
- E. Landlord shall have the right to transfer and assign, in whole or in part, all of its rights and obligations hereunder and in the Building and Project referred to herein, and in such event and upon such transfer Landlord shall be released from any further obligations hereunder, and Tenant agrees to look solely to such successor in interest of Landlord for the performance of such obligations.
- F. Tenant hereby represents to Landlord that it has dealt directly with and only with the Broker as a broker in connection with this Lease. Tenant agrees to indemnify and hold Landlord and the Landlord Related Parties harmless from all claims of any brokers claiming to have represented Tenant in connection with this Lease. Landlord agrees to indemnify and hold Tenant and the Tenant Related Parties harmless from all claims of any brokers claiming to have represented Landlord in connection with this Lease.
- G. If there is more than one Tenant, or if the Tenant is comprised of more than one person or entity, the obligations hereunder imposed upon Tenant shall be joint and several obligations of all such parties. All notices, payments, and agreements given or made by, with or to any one of such persons or entities shall be deemed to have been given or made by, with or to all of them.
- H. In the event Tenant is a corporation (including any form of professional association), partnership (general or limited), or other form of organization other than an individual (each such entity is individually referred to herein as an "Organizational Entity"), then Tenant hereby covenants, warrants and represents: (1) that such individual is duly authorized to execute or attest and deliver this Lease on behalf of Tenant in accordance with the organizational documents of Tenant; (2) that this Lease is binding upon Tenant; (3) that Tenant is duly organized and legally existing in the state of its organization, and is qualified to do business in the state in which the Premises is located; and (4) that the execution and delivery of this Lease by Tenant will not result in any breach of, or constitute a default under any mortgage, deed of trust, lease, loan, credit agreement, partnership agreement or other contract or instrument to which Tenant is a party or by which Tenant may be bound. If Tenant is an Organizational Entity, upon request, Tenant will, prior to the Commencement Date, deliver to Landlord true and correct copies of all organizational documents of Tenant, including, without limitation, copies of an appropriate resolution or consent of Tenant's board of directors or other appropriate governing body of Tenant authorizing or ratifying the execution and delivery of this Lease, which resolution or consent will be duly certified to Landlord's satisfaction by an

appropriate individual with authority to certify such documents, such as the secretary or assistant secretary or the managing general partner of Tenant.

- I. Controller's Certification of Funds. The terms of this Lease shall be governed by and subject to the budget and fiscal provisions of the Charter of the City and County of San Francisco. Notwithstanding anything to the contrary contained in this Lease, there shall be no obligation for the payment or expenditure of money by City under this Agreement unless the Controller of the City and County of San Francisco first certifies, pursuant to Section 3.105 of the Charter of the City and County of San Francisco, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure. Without limiting the foregoing, if in any fiscal year of City after the fiscal year in which the Term of this Lease commences, sufficient funds for the payment of the Rent and any other payments required under this Lease are not appropriated for any reason, then City may terminate this Lease, without penalty, liability or expense of any kind to City, as of the last date on which sufficient funds are appropriated. City shall use its reasonable efforts to give Landlord prompt notice of such nonappropriation and reasonable advance notice of such termination.
- J. MacBride Principles - Northern Ireland. The City and County of San Francisco (The "City") urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Landlord acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.
- K. Tropical Hardwood and Virgin Redwood Ban. The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood wood product, virgin redwood or virgin redwood wood product.
- L. Non-Discrimination in City Contracts and Benefits Ordinance.

Landlord is excepted from the requirements of Chapters 12B and 12C of the City and County of San Francisco Administrative Code for purposes of this Lease. City and Landlord agree that such exception from the requirements of Chapters 12B and 12C is hereby demonstrated by the completed "Sole Source and Emergency Exception Waiver Request Form" approved by HRC and attached hereto as Exhibit E.
- M. Effectiveness of Lease. This lease shall not be effective until the parties have fully executed this Lease.
- N. Except as expressly otherwise herein provided, with respect to all required acts

of Tenant, time is of the essence of this Lease. This Lease shall create the relationship of Landlord and Tenant between the parties hereto.

- O. This Lease and the covenants and conditions herein contained shall inure to the benefit of and be binding upon Landlord and Tenant and their respective permitted successors and assigns.
- P. Notwithstanding anything to the contrary contained in this Lease, the expiration of the Lease Term, whether by lapse of time or otherwise, shall not relieve Landlord or Tenant from their obligations accruing prior to the expiration of the Lease Term, and such obligations shall survive any such expiration or other termination of the Lease Term.
- Q. The headings and titles to the paragraphs of this Lease are for convenience only and shall have no effect upon the construction or interpretation of any part hereof.
- R. Landlord has delivered a copy of this Lease to Tenant for Tenant's review only, and the delivery hereof does not constitute an offer to Tenant or option. This Lease shall not be effective until an original of this Lease executed by both Landlord and Tenant, and this Lease has been approved by Landlord's Mortgagees, if required.
- S. Quiet Enjoyment. Tenant shall, and may peacefully have, hold, and enjoy the Premises, subject to the other terms of this Lease (including, without limitation, Article XXX hereof), provided that Tenant pays the Rent herein recited to be paid by Tenant and performs all of Tenant's covenants and agreements herein contained. This covenant and any and all other covenants of Landlord shall be binding upon Landlord and its successors only during its or their respective periods of ownership of the Landlord's interest hereunder.

XXXV. Entire Agreement.

This Lease Agreement, including the following Exhibits:

Addendum

- Exhibit A-1 thru A-5 - Premises, Location of Premises and Legal Description of Project
- Exhibit B - Rules and Regulations
- Exhibit C - Technical Standards
- Exhibit D - Location of Backup Emergency Generator
- Exhibit E - HRC Waiver Form
- Exhibit F - Renewal Option

Exhibit G

- Agreement of Subordination, Non-Disturbance and Attornment

constitutes the entire agreement between the parties hereto with respect to the subject matter of this Lease and supersedes all prior agreements and understandings between the parties related to the Premises, including all lease proposals, letters of intent and similar documents. TENANT EXPRESSLY ACKNOWLEDGES AND AGREES THAT LANDLORD HAS NOT MADE AND IS NOT MAKING, AND TENANT, IN EXECUTING AND DELIVERING THIS LEASE, IS NOT RELYING UPON, ANY WARRANTIES, REPRESENTATIONS, PROMISES OR STATEMENTS, EXCEPT TO THE EXTENT THAT THE SAME ARE EXPRESSLY SET FORTH IN THIS LEASE. ALL UNDERSTANDINGS AND AGREEMENTS HERETOFORE MADE BETWEEN THE PARTIES ARE MERGED IN THIS LEASE WHICH ALONE FULLY AND COMPLETELY EXPRESSES THE AGREEMENT OF THE PARTIES, NEITHER PARTY RELYING UPON ANY STATEMENT OR REPRESENTATION NOT EMBODIED IN THIS LEASE. THIS LEASE MAY BE MODIFIED ONLY BY A WRITTEN AGREEMENT SIGNED BY LANDLORD AND TENANT. LANDLORD AND TENANT EXPRESSLY AGREE THAT THERE ARE AND SHALL BE NO IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, ALL OF WHICH ARE HEREBY WAIVED BY TENANT, AND THAT THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THOSE EXPRESSLY SET FORTH IN THIS LEASE.

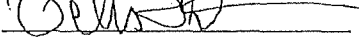
IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease, in quadruplicate, on the 22nd day of April, 1998.

LANDLORD:

EOP-ONE MARKET, L.L.C.,
a Delaware limited liability company, doing
business in California as
EOP-ONE MARKET, LLC, a Delaware limited
liability company

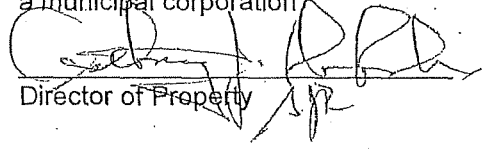
By: EOP Operating Limited Partnership,
a Delaware limited partnership,
its sole member

By: Equity Office Properties Trust,
a Maryland real estate investment trust,
its managing general partner

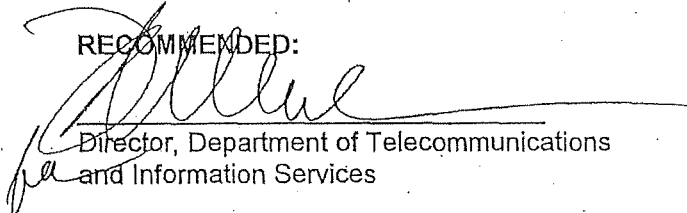
By: 
Name: Peter H. Adams
Title: Senior Vice President

TENANT:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation


Director of Property

RECOMMENDED:


Director, Department of Telecommunications
and Information Services

APPROVED AS TO FORM:
LOUISE H. RENNE, City Attorney

By 
Deputy City Attorney

Board of Supervisors
Resolution No. 805-97

FIRST AMENDMENT TO ANTENNA SITE LEASE

THIS FIRST AMENDMENT TO ANTENNA SITE LEASE (this "Amendment") is dated for reference purposes as of May 3, 2010, by and between PPF PARAMOUNT ONE MARKET PLAZA OWNER, L.P., a Delaware limited partnership ("Landlord") and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Tenant"). Capitalized terms used herein but not defined shall have the meaning given them in the Lease (as defined below).

THIS AMENDMENT is made with reference to the following facts:

A. City and Landlord, as successor-in-interest to EOP-One Market L.L.C., a Delaware limited liability company (doing business in California as EOP-One Market LLC), are parties to that certain Antenna Site Lease, dated April 22, 1998 (the "Initial Lease"), pursuant to which City presently leases the Premises consisting of a portion of Room #AMZ98, located on the mezzanine of the roof of Building located at One Market Street, San Francisco, California, and commonly known as the Spear Tower, together with certain other locations on the roof of the Spear Tower, in order to install and operate certain Site Equipment for City's emergency and non-emergency communications system. The Initial Lease as amended by this Amendment shall be referred to herein as the "Lease."

B. Exhibits A-2 and A-3 to the Initial Lease depicted the locations of the Site Equipment which consisted of the six (6) antennas located on the Premises.

C. Prior to the date hereof, City installed certain additional equipment not depicted on Exhibits A-2 and A-3 to the Initial Lease.

D. City is working to improve its program of public safety communications in San Francisco, and in connection with such improvement, City desires to install certain additional equipment.

E. Landlord and City desire to amend the Initial Lease to (1) document the location of all of existing Site Equipment, (2) permit City to install additional equipment in additional locations on the roof of the Spear Tower, and (3) increase the Base Rental payable under the Lease, and amend the Lease in certain other respects.

NOW, THEREFORE, in consideration of the matters described in the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, the City and Landlord agree as follows:

1. Existing Site Equipment. As of the date hereof, the locations of all existing City equipment on the roof of the Spear Tower are depicted with a designation "(E)" on the Exhibit A attached to this Amendment, and Landlord and City acknowledge that all such equipment is deemed to be "Site Equipment," as such term is used in the Lease and the location of each item of equipment is included within the Premises.

2. Additional Site Equipment.

(a) From and after the date hereof, and subject to the terms and conditions of the Lease, City shall have the right to install the following additional Site Equipment (the "Additional Site Equipment") in Room #AMZ98 and on the roof of the Spear Tower, provided that such installations shall be made in accordance with the provisions of the Lease, including, without limitation, the provisions of Section XI.B. and the technical standards set forth in Exhibit C to the Lease:

- (i) One (1) HPD antenna; to be installed in the location depicted with the designation "(P)" on the attached Exhibit A;
- (ii) One (1) GPS antenna array; to be installed in a location to be determined by Landlord and City; and
- (iii) Two (2) 700 MHz 2-way antennas; to be installed in locations to be determined by Landlord and City.

As used in this Amendment, the "Additional Premises" shall mean the locations on which the Additional Site Equipment is installed pursuant to the terms hereof. The location of such Additional Site Equipment shall be subject to Landlord's reasonable approval; provided, however, that Landlord agrees to take into account City's proposed operation of the Additional Site Equipment for the Permitted Use, including, if applicable, any special requirements such as line of sight with other City facilities, and City acknowledges that the location of the Additional Site Equipment may not interfere with any other communication or other system then installed on the roof of the Spear Tower. Landlord and City shall use good faith efforts to promptly resolve any disagreement about the designated location of the Additional Site Equipment.

Following the installation of any item of Additional Site Equipment or New Equipment (as defined below), City shall promptly deliver to Landlord an updated diagram in the form of Exhibit A attached hereto depicting the location of all of the Site Equipment, including all Additional Site Equipment and/or New Equipment, as applicable.

(b) Definition of Premises. Effective as of the date of Landlord's delivery of any portion of the Additional Premises to the City, the locations of such Additional Premises shall be deemed to be part of the Premises, as defined in the Lease.

(c) Base Rent for Additional Premises. Commencing on July 1, 2009 (the "Additional Premises Rent Commencement Date") and continuing throughout the Lease Term, City shall pay Rent for the Additional Premises at the rate of Fourteen Thousand Four Hundred Dollars (\$14,400.00) per annum for each calendar year of May 1st through April 30th (the "Additional Premises Base Rental"), payable in advance in two equal annual installments of Seven Thousand Two Hundred Dollars (\$7,200.00) each on the first (1st) day of April and the first (1st) day of October, in accordance with Section IV.A of the Lease; provided, however, that the first installment of Additional Premises Base Rental for the period of July 1, 2009 through September 30, 2009, shall be payable within thirty (30) days after the effective date of this Amendment and prorated based on the actual number of days during such period. Commencing on May 1, 2010, the Additional Premises Base Rental shall be adjusted in the manner provided in

Section IV.C of the Lease. City acknowledges that the Additional Premises Rent Commencement Date for the entire Additional Premises shall be July 1, 2009, notwithstanding the effective date of this Amendment and notwithstanding the actual date of Landlord's delivery of any portion of the Additional Premises, provided that there shall be an appropriate proration of Additional Premises Base Rental if Tenant's occupancy of the Additional Premises is delayed due to Landlord's failure to deliver any portion of the Additional Premises either (A) within thirty (30) days after the effective date of this Amendment, with respect to the Additional Site Equipment described in item (i) of Section 2(a), or (B) with respect to the Additional Site Equipment described in items (ii) and (iii) of Section 2(a), within thirty (30) days after the determination of the location of such Additional Site Equipment.

3. **New Equipment.**

(a) **New Installations Option.** During the Term of the Lease (including any Renewal Term), City shall have the ongoing option (the "New Installations Option") to install one or more additional antennas and ancillary equipment (the "New Equipment") on the roof of the Spear Tower and, as applicable, in Room #AMZ98, on the terms and conditions set forth in this Section 5; provided, however that the size, design and location of such equipment and manner of installation shall be subject to Landlord's reasonable approval. City shall exercise the New Installations Option, if at all, by written proposal to Landlord given from time to time, which proposal shall include the exact size and the general description of the New Equipment. As soon as reasonably possible after Landlord's receipt of a City's proposal, Landlord shall designate a proposed location for the New Equipment that are the subject of such proposal, which location shall be subject to City's reasonable approval. Landlord agrees that the location of the New Equipment will take into account City's proposed operation of the antenna for the Permitted Use, including, if applicable, any special requirements such as line of sight with other City facilities, and City acknowledges that the location of the antenna site(s) may not interfere with any other communication or other system then installed on the roof of the Spear Tower. The locations of all New Equipment shall be referred to herein as "New Sites."

(b) **Rent for New Sites.** City shall pay rent for each New Site at the prevailing market rate, determined as provided herein and adjusted as provided herein, from and after the date on which Landlord delivers such New Site to City (each such delivery date, a "New Site Rent Commencement Date"). Promptly following the designation and approval of the New Site, City shall provide Landlord with written notice of City's determination of prevailing market rate for the New Site, as established or approved by the City's Director of Property. If Landlord disputes City's determination of the prevailing market rate, Landlord shall provide City with written notice of Landlord's opinion of prevailing market rate together with reasonable substantiation for such rate, within fourteen (14) days following City's notice to Landlord. If Landlord does not so dispute City's determination of prevailing market rate, then the Base Rental for the New Site shall be the rate so determined by City. If Landlord disputes City's determination of the prevailing market rate:

- (i) Within thirty (30) days following Landlord's notice to City containing Landlord's opinion of prevailing market rate, Landlord and City shall attempt in good faith to meet no less than two (2) times, at a mutually agreeable time and place, to attempt to resolve any such disagreement. If

Landlord and City reach an agreement as to the prevailing market rate, such rate shall be the Base Rental for the New Site.

- (ii) If within such thirty (30) day period Landlord and City cannot reach agreement as to the prevailing market rate, they shall each select one real estate broker.
- (iii) The broker selected by each party shall together immediately select a third broker who shall within ten (10) days of his or her selection, choose either Landlord's or City's determination of the prevailing market rate and provide the reasoning for such selection, and the rate so chosen shall be the Base Rental for the New Site.
- (iv) All brokers specified above shall (i) have had at least five (5) years experience within the previous ten (10) years as a real estate broker working in the downtown San Francisco area, with working knowledge of current rooftop equipment rental rates and practices, and (ii) have not acted in any capacity for either party for at least the 2 prior years. Each party shall pay for its own broker. Landlord shall pay the cost of the third broker and City shall reimburse Landlord upon demand for one-half the actual and reasonable cost of such third broker.
- (v) If City's Director of Property does not approve of the prevailing market rate as determined by the appraisal procedure specified above, the Director of Property shall revoke the exercise of the New Installations Option by written notice to Landlord.

Base Rental for each New Site for each calendar year of May 1 through April 30 during the Term with respect to such New Site shall be payable in advance in two annual installments on the first day of April and October, in accordance with Section IV.A of the Initial Lease, provided that the initial installment of Base Rental for the New Site shall be payable within thirty (30) days after the New Site Rent Commencement Date. If the New Site Rent Commencement Date is a date other than May 1 or November 1, then Base Rental for the New Site for the period commencing on the New Site Rent Commencement Date and ending on the next occurring May 1 or November 1, as applicable, shall be appropriately prorated. Commencing on the May 1st immediately following the New Site Rent Commencement Date, the Additional Site Base Rental shall be adjusted in the manner provided in Section IV.C of the Initial Lease.

(c) Additional Terms and Conditions. Effective as of the date of Landlord's delivery of any New Site to the City, the locations of such New Site shall be deemed to be part of the Premises, as defined in the Lease. All installations of New Equipment shall be made in accordance with the provisions of the Lease, including, without limitation, the provisions of Section XI.B. and the technical standards set forth in Exhibit C to the Initial Lease. If City is in default under the Lease on the date of giving a notice exercising any New Installations Option, Landlord may reject such exercise by delivering written notice thereof to City.

4. **No Rent Reduction.** In no event shall the amount of rent payable under the terms of the Lease by City be reduced in the event City removes any item of Site Equipment, whether for obsolescence or any other reason.

5. **City to Pay Cost of Landlord's Review.** The sixth (6th) sentence of Section XI.B of the Initial Lease is deleted in its entirety and the following language is substituted in its place, "Tenant shall reimburse Landlord upon demand as Additional Base Rental for all reasonable sums, including, without limitation, the cost of any third party technical studies or reviews, arising out of or related to Landlord's examination or review of any proposed alteration, addition, or improvement to any Site Equipment, Additional Site Equipment or New Equipment."

6. **Termination Date.** Landlord and City acknowledge and agree that in July of 2007, City timely exercised its first Renewal Option and extended the Lease Term such that the Termination Date is April 30, 2013.

7. **Notice Addresses.** The notices addresses set forth in Section I.A.8 of the Initial Lease are hereby deleted and the following addresses are substituted therefor:

Tenant: Notices shall be sent to Tenant at the following addresses:

Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Amy L. Brown,
Director of Property
Fax No.: (415) 552-9216

with a copy to:
Department of Technology (DT)
1 South Van Ness Avenue, 2nd Floor
San Francisco, CA 94103
Attn: General Manager

and a copy to:
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attn: Real Estate and Finance Team
Fax No.: (415) 554-4755

Landlord: Notices shall be sent to Landlord at the following addresses:

PPF PARAMOUNT ONE MARKET PLAZA OWNER, L.P.
c/o Morgan Stanley US RE Investing Division
555 California Street, Suite 2200, Floor 21
San Francisco, California 94104
Attention: Artlyn Fong

with a copy to:

PARAMOUNT GROUP, INC.
One Market Plaza
Spear Tower, Suite 345
San Francisco, California 94105
Attention: Area Asset Manager/General Manager

and a copy to:

PARAMOUNT GROUP, INC.
1633 Broadway, Suite 1801
New York, NY 10019
Attention: Bernard A. Marasco
Director of Leasing

8. **Covenant Not to Discriminate.** Article XXXIV Section T is hereby added to the Lease as follows:

“T. Covenant Not to Discriminate. In the performance of this Lease, Landlord covenants and agrees not to discriminate on the basis of the fact or perception of a person’s race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of Landlord, any City employee working with Landlord, or any applicant for employment with Landlord.”

9. **Requirements for Lease Amendments.** Article XXXIV Section U is hereby added to the Lease as follows:

“U. Amendments. Neither this Lease nor any terms or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge or termination is sought. No waiver of any breach shall affect or alter this Lease, but each and every term, covenant and condition of this Lease shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Whenever this Lease requires or permits the giving by City of its consent or approval, the City’s Director of Property, or his or her designee, shall be authorized to provide such approval, except as otherwise provided by applicable law, including the Charter of the City and County of San Francisco. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the exhibits to this Lease, shall be subject to

the mutual written agreement of City and Landlord, and City's agreement may be made upon the sole approval of City's Director of Property, or his or her designee; provided, however, material amendments or modifications to this Lease (a) increasing the Term, (b) increasing the Rent, (c) changing the general use of the Premises from the use authorized under Article V of this Lease, and (d) any other amendment or modification which materially increases City's liabilities or financial obligations under this Lease shall additionally require the approval of City's Board of Supervisors."

10. **Conflicts of Interest.** Article XXXIV Section W is hereby added to the Lease as follows:

"W. **Conflicts of Interest.** Landlord acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provisions, and agrees that if Landlord becomes aware of any such fact during the Term of this Lease, Landlord shall immediately notify City."

11. **Notification of Limitations on Contribution.** Article XXXIV Section X is hereby added to the Lease as follows:

"X. **Notification of Limitations on Contributions.** Landlord acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Landlord acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Landlord further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Landlord's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Landlord; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Landlord. Additionally, Landlord acknowledges that Landlord must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126 of the San Francisco Campaign and Governmental Conduct Code."

12. Sunshine Ordinance. Article XXXIV Section V is hereby added to the Lease as follows:

“V. Sunshine Ordinance. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors’ bids, agreements, responses to Requests for Proposals, and all other records of communications between City and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person’s or organization’s net worth or other proprietary financial data submitted for qualification for a contract, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.”

13. Estoppel Certificates. Landlord acknowledges and agrees that notwithstanding the provisions of items (v) and (ix) of Section 6 of the Addendum of the Initial Lease, (A) City cannot confirm the rentable square footage of the Premises, and (B) any estoppel certificate delivered by City pursuant to such Section 6 shall certify the then-expiration date of the Lease (which, as of the effective date of this Amendment is April 30, 2013).

14. No Joint Venture. This Amendment or any activity by the City hereunder does not create a partnership or joint venture between the City and Landlord relating to the Lease or otherwise. This Amendment does not constitute authorization or approval by the City of any activity conducted by Landlord, and the City shall in no way be responsible for the acts or omissions of Landlord on the Premises or otherwise.

15. Attorneys Fees. In the event a dispute arises concerning this Amendment, the party not prevailing in such dispute shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys’ fees. For purposes of this Amendment, reasonable fees of attorneys of City’s Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney’s services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

16. References. No reference to this Amendment is necessary in any instrument or document at any time referring to the Lease. Any future reference to the Lease shall be deemed a reference to such document as amended hereby.

17. Applicable Law. This Amendment shall be governed by, construed and enforced in accordance with the laws of the State of California.

18. Further Instruments. The parties hereto agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this Amendment.

19. Miscellaneous. Except as expressly modified herein, the terms, covenants and conditions of the Lease shall remain unmodified and in full force and effect. The Lease as

amended by this Amendment constitutes the entire agreement of the parties concerning the subject matter hereof, and supersedes and conceals any and all previous negotiations, agreements, or understandings, if any, regarding the matters contained herein. The execution of this Amendment shall not constitute a waiver of relinquishment of any rights which the City may have relating to the Lease. Landlord and City hereby ratify and confirm all of the provisions of the Lease as amended by this Amendment.

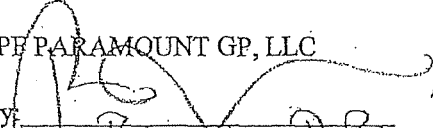
20. Effective Date of Amendment. Notwithstanding anything to the contrary contained in this Amendment, Landlord acknowledges and agrees that no officer or employee of City has authority to commit City hereto unless and until City's Board of Supervisors shall have duly adopted a resolution approving this Amendment and authorizing consummation of the transaction contemplated hereby. Therefore, any obligations or liabilities of City hereunder are contingent upon adoption of such a resolution, and this Amendment shall be null and void unless City's Mayor and Board of Supervisors approve this Amendment, in their respective sole and absolute discretion, and in accordance with all applicable laws. Approval of this Amendment by any department, commission or agency of City shall not be deemed to imply that such resolution will be adopted nor will any such approval create any binding obligations on City. Subject to the foregoing, the effective date of this Amendment shall be the date this Amendment is executed by Landlord and City.

(Signatures on following page)

In witness whereof, the parties hereto have executed this Amendment as of the date written above.

LANDLORD: PPF PARAMOUNT ONE MARKET PLAZA
OWNER, L.P.
a Delaware limited partnership

By: PPF PARAMOUNT GP, LLC

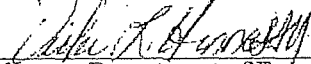
By: 
Name: RALPH J. DiRUGGIERO
Title: VP

By: ~~NOT REQUIRED~~
Name: ~~_____~~
Title: ~~_____~~

TENANT: CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation.

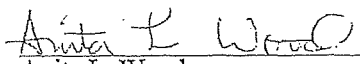
By: 
Name: AMY L. BROWN
Title: Director of Property

RECOMMENDED:


Director, Department of Emergency
Management

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: 
Name: Anita L. Wood
Title: Deputy City Attorney



SAN FRANCISCO
DEPARTMENT OF
TECHNOLOGY

April 8, 2019

Honorable Board of Supervisors
City and County of San Francisco
City Hall, 1 Carlton B. Goodlett Place
San Francisco, CA 94102

Subject: Second Amendment to Telecom Lease at One Market Plaza with PPF Paramount One Market Plaza Owner, L.P. (Landlord)

Dear Board Members:

Attached for your consideration is a Resolution approving and authorizing the Second Amendment to [Telecommunications] Lease of a portion of the roof at One Market Plaza (also known as the "Spear Tower"), with property owner/landlord PPF Paramount One Market Plaza Owner, L.P. The Second Amendment permits the installation of additional and upgraded antennas and equipment of the Department of Emergency Management (DEM), Department of Technology (DT), and the San Francisco Municipal Transportation Agency (SFMTA) for the City's emergency radio and cellular telecommunications system.

Background

In 1997, the Board of Supervisors approved an 800 MHz Radio System to be installed and used for emergency public services (SFFD, SFPD, SFSD, Public Health, etc.). One Market Plaza is an integral (necessary) site for complete coverage of the City. Accordingly, for optimal coverage within the City, in 1998, the City entered into a lease agreement to use a portion of the roof at One Market Plaza. The City has been using the space/roof ever since.

In October 2016, the Board of Supervisors adopted Resolution No.16-0967, approving a new 800 MHz Project which proposes to continue to use the existing antennas at One Market Plaza for optimal coverage.

The Second Amendment to the Lease provides for additional and upgraded equipment on the roof at One Market for the 800 MHz Emergency Radio/Cellular Communication Project and provides for additional space, antennas and equipment to be used by SFMTA.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2019 APR - 8 AM 10:40
BY *[Signature]*

Resolution

Specifically, the Resolution approves:

- (A) Extending the initial Lease term through May 31, 2020;
- (B) Two additional option terms of five years each to extend the lease;
- (C) A base monthly rent of \$15,475.75 (103% above existing rent) commencing June 1, 2019, subject to annual adjustments of 3%.

The Department of Emergency Management, Department of Technology, the San Francisco Municipal Transportation Agency and the Real Estate Division recommend approval of the proposed Resolution. If you have any questions regarding the project, please contact Michelle Geddes of DEM at michelle.geddes@sfgov.org. For questions regarding the lease, please contact Claudia Gorham of Real Estate at 415.554.9871 or claudia.gorham@sfgov.org.

Respectfully,



Linda Gerull
City Chief Information Officer
Department of Technology

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
 (S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: PPF Paramount One Market Plaza Owner, L.P., a Delaware Limited Partnership	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
(1) Albert Behler, Martin Bussman, L. Gilbreath, Peter Linniman, Market Patterson, Thomas Armburst, Dan Emmett, Karin Klein, Katharina Otto-Bernstein (2) Alfred P. Behler, President & CEO; Wilbur Paes, Exc. VP, CFO, Treasurer; Peter R.C. Brindley, Exc. VP, Leasing; David Zobel, Exc. VP, Head of Acquisitions (3) PPF Paramount GP, LLC; (4) N/A; (5) N/A	
Contractor address: Paramount Group, Inc., Steuart Tower, One Market Plaza, Suite 1470, SF, CA 94105	
Date that contract was approved: <i>(By the SF Board of Supervisors)</i>	Amount of contract: Rent : \$15,475.75 per month
Describe the nature of the contract that was approved: Lease of roof, equipment space and related cabling for DEM's and SFMTA's antennas and related equipment for radio and cell communications	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

 Signature of City Elective Officer (if submitted by City elective officer)

 Date Signed

 Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

 Date Signed