

[License Agreement – Non-Stop Music Library, L.C.]

Ordinance approving an agreement with Non-Stop Music Library L.C. to license the use of a music library and waiving certain requirements of the Administrative Code with respect to the license agreement.

NOTE: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strike-through italics Times New Roman*~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strike-through normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings. The Board of Supervisors of the City and County of San Francisco ("City") hereby finds that:

(a) The City's Department of Technology ("DT") operates the City's governmental television stations ("SFGTV"). SFGTV adds music to certain programming at various times of the day. SFGTV also adds music to its recordings of programs that are sold to the general public including meetings of the Board of Supervisors. DT also uses music to provide "music on hold" services to callers to the City.

(b) DT seeks to license the use of music produced by others from Non-Stop Music Library L.C. ("Non-Stop Music") for a minimal license fee (\$750 per year). Non-Stop Music uses a standard form license agreement, which it is generally unwilling to modify due to the small amount of the license fee to be paid by DT.

(c) While Non-Stop Music represents and warrants that it owns the music to be licensed to DT, and is authorized to enter into the license agreement, Non-Stop Music is willing to indemnify the City for copyright infringement only up to the amount paid to Non-Stop

1 Music by the City. Non-Stop Music is unwilling to include an insurance provision in the license
2 agreement. The City's Risk Manager has approved these aspects of the license agreement.

3 (d) Non-Stop Music similarly seeks to limit its liability to the City to the amount of the
4 license fee. The City Attorney has approved the limitation of liability provision.

5 (e) Non-Stop Music will also require the City to pay its attorney's fees and costs,
6 should Non-Stop Music sue the City for breach of the license agreement. DT has determined
7 that there is a minimal risk that the City would be required to pay attorney's fees and costs.

8 (f) DT and Non-Stop Music have agreed that the license agreement shall have a
9 term of nine years and thereafter shall be automatically renewed for consecutive one-year
10 periods unless cancelled by either party. There is a possibility, therefore, that the term of the
11 license agreement shall extend beyond ten years.

12 (g) Funds for this year's license fee have been appropriated in DT's budget. If
13 funds are not appropriated in future years, DT will give notice of cancellation to Non-Stop
14 Music. Either the City or Non-Stop Music may cancel the agreement on 60 days notice.

15 Section 2. Authorization. Pursuant to Charter Section 9.118(b), the Acting City Chief
16 Information Officer of the Department of Technology and the Director of the Office of Contract
17 Administration are hereby authorized to execute the license agreement with Non-Stop Music
18 for a term that may exceed ten years. Copies of the license agreement are on file with the
19 Clerk of the Board of Supervisors in File No. _____.

20 Section 3. Waivers. For the purpose of this license agreement, the Board of
21 Supervisors finds that it is reasonable and in the public interest to grant waivers of the City
22 contracting requirements specified below:

23 (a) The requirement of San Francisco Administrative Code Section 12F.5 that every
24 contract contain a statement urging companies doing business in Northern Ireland to move
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1 toward resolving employment inequities, and encouraging them to abide by the MacBride
2 Principles.

3 (b) The requirement of San Francisco Administrative Code Section 21.9(b) that
4 contracts not contain an automatic renewal provision.

5 (c) The requirement of San Francisco Administrative Code Section 21.20 that every
6 contract contain an insurance provision.

7 (d) The requirement of San Francisco Administrative Code Section 21.21 that any
8 contractor entering into a contract with the City that involves the provision of intellectual
9 property to the City must fully indemnify the City and any of its officers or agents from all
10 damages, or claims for damages, costs or expenses resulting from an infringement claim.

11 (e) The requirement of San Francisco Administrative Code Section 21.35 that every
12 contract include a statement regarding the liability of claimants for submitting false claims to
13 the City.

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15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

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18 By: _____
19 WILLIAM K. SANDERS
20 Deputy City Attorney
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