

1 [Settlement of Lawsuit and Tolling Agreement - Airbnb, Inc. and HomeAway.com, Inc. - City to
2 Receive \$80,000 plus \$10,000 Annually]

3 **Resolution endorsing settlement of the lawsuit filed by Airbnb, Inc. and**
4 **HomeAway.com, Inc. against the City and County of San Francisco and authorizing a**
5 **Tolling Agreement; the lawsuit was filed on June 27, 2016, in the United States District**
6 **Court for the Northern District of California, Case No. 16-cv-03615; entitled Airbnb, Inc.,**
7 **et al. v. City and County of San Francisco; the lawsuit involves a challenge to**
8 **Ordinance Nos. 104-16 and 178-16, which regulate hosting platforms that provide**
9 **booking services for short-term residential rentals; material terms of the settlement**
10 **include a framework for Airbnb and HomeAway to take reasonable care to verify that**
11 **short-term rental listings are lawfully registered before offering booking services,**
12 **Airbnb and HomeAway's agreement to remove unregistered listings on their websites,**
13 **Airbnb and HomeAway's payment of \$40,000 each to the City plus \$5,000 each annually**
14 **to establish an Application Program Interface, and the City's agreement to toll statutes**
15 **of limitation.**

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17 WHEREAS, The City Administrator has proposed settlement of the action entitled
18 Airbnb, Inc., et al. v. City and County of San Francisco, U.S. District Court for the Northern
19 District of California, Case No. 16-cv-03615, subject to approval by resolution of the Board of
20 Supervisors; and

21 WHEREAS, The material terms of the proposed settlement are set forth in the
22 Settlement Agreement contained in Board of Supervisors File No. 170507, including Airbnb
23 and HomeAway's (the "Platforms") agreement to require hosts to enter registration numbers
24 provided by the Office of Short-Term Rentals ("OSTR") to list their units; authorization for the
25 Platforms to establish pass-through registration systems linked to OSTR; the Platforms'

1 agreement to remove unregistered listings from their sites in a timely manner; authorization
2 for the Platforms to develop an Application Program Interface (API) to share listing and
3 registration information with OSTR's API, for which the Platforms will each pay \$40,000
4 upfront and \$5,000 annually to the City to cover costs; an authorization for the Platforms to
5 dismiss their complaint without prejudice; and an agreement that the Platforms will meet and
6 confer with the City and a neutral magistrate before withdrawing from the settlement
7 agreement based on a material change to Administrative Code Chapter 41A; and

8 WHEREAS, The proposed settlement further provides that the City will waive any
9 statute of limitations or similar defenses in the event that Airbnb or HomeAway withdraws from
10 the settlement agreement based on a material change to Administrative Code Chapter 41A
11 enacted by the City subsequent to the effective date of the settlement agreement; and

12 WHEREAS, The lawsuit involves a challenge under the Communications Decency Act,
13 the Stored Communications Act, and the United States Constitution to Ordinance Nos. 104-16
14 and 178-16 regulating short-term rental hosting platforms, including the Platforms; and

15 WHEREAS, The above-named action was filed in the United States District Court for
16 the Northern District of California on June 27, 2016, and the following parties were named in
17 the lawsuit: Airbnb, Inc. and HomeAway.com, Inc., Plaintiffs, and City and County of San
18 Francisco, Defendant; and

19 WHEREAS, By its terms, the proposed settlement agreement must be endorsed by
20 resolution of the Board of Supervisors, and will be null and void if the Board of Supervisors
21 and the Mayor do not enact a resolution endorsing the settlement; now, therefore, be it

22 RESOLVED, That the Board of Supervisors hereby endorses the proposed settlement
23 agreement, including the tolling of the statute of limitations, as set forth in this resolution.
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APPROVED AS TO FORM AND
RECOMMENDED:

DENNIS J. HERRERA
City Attorney



YVONNE MERE
Chief of Complex and Affirmative Litigation

RECOMMENDED:



NAOMI KELLY
City Administrator



City and County of San Francisco

Tails

Resolution

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

File Number: 170507

Date Passed: May 23, 2017

Resolution endorsing settlement of the lawsuit filed by Airbnb, Inc. and HomeAway.com, Inc. against the City and County of San Francisco and authorizing a Tolling Agreement; the lawsuit was filed on June 27, 2016, in the United States District Court for the Northern District of California, Case No. 16-cv-03615; entitled Airbnb, Inc., et al. v. City and County of San Francisco; the lawsuit involves a challenge to Ordinance Nos. 104-16 and 178-16, which regulate hosting platforms that provide booking services for short-term residential rentals; material terms of the settlement include a framework for Airbnb and HomeAway to take reasonable care to verify that short-term rental listings are lawfully registered before offering booking services, Airbnb and HomeAway's agreement to remove unregistered listings on their websites, Airbnb and HomeAway's payment of \$40,000 each to the City plus \$5,000 each annually to establish an Application Program Interface, and the City's agreement to toll statutes of limitation.

May 23, 2017 Board of Supervisors - ADOPTED

Ayes: 9 - Breed, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

Excused: 2 - Cohen and Farrell

File No. 170507

I hereby certify that the foregoing Resolution was ADOPTED on 5/23/2017 by the Board of Supervisors of the City and County of San Francisco.

Handwritten signature of Angela Calvillo
Angela Calvillo
Clerk of the Board

Handwritten signature of Mayor
Mayor

6/2/2017
Date Approved