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

WHEREAS, The City entered into a First Amendment to License Agreement for real property authorized by Resolution 897-98 at 99 Moultrie, San Francisco consisting of the space upon an existing tower and associated building for telecommunication purposes for use by the Departments of Technology, Emergency Communications, the Police Department, and other Departments, for a term commencing March 1, 1998 and self-renewing annually after February 28, 2003, unless otherwise terminated by City or property owner; and

WHEREAS, The occupant departments and the owner of the property desire to have a longer term agreement with modifications to facilitate placement of additional antennas upon the property, providing the City greater stability and reliance on this asset and its role in the City’s emergency communications network; and

WHEREAS, In order to provide capacity for anticipated Municipal Transportation Agency radio replacement project needs, as well as potential other emergency communication replacement or enhancement projects, additional equipment would be necessary at the property, and a longer term commitment is required; and

WHEREAS, The Real Estate Division, on behalf of the occupant departments, and the property owner, American Towers, LLC have determined that fair market rent for a new five (5) year agreement (June 1, 2012 through May 31, 2017) to be $2,100.00 per month
for the first year of the Agreement, increasing annually by four percent against the base rate only of $1,400/month for the remainder of the term; and

WHEREAS, the increase in rental rate proposed by the property owner is the first increase in rent for the City in over fourteen years, and represents an increase of four percent per year for that prior term; and

WHEREAS, City and American Towers, LLC's Agreement is subject to an enactment of a resolution approving and authorizing the Agreement by the Board of Supervisors and Mayor in their respective sole and absolute discretion; now, therefore, be it

RESOLVED, That in accordance with the recommendation of the Acting Director of Property, the Board of Supervisors hereby approves the Renewal License Agreement to extend the License term for five years commencing retroactively on June 1, 2012, on the terms and conditions set forth in the Agreement, a copy of which is included in Board of Supervisors File No. 120931, and authorizes the Acting Director of Property to take all actions, on behalf of the City and County of San Francisco as may be required in furtherance of the Agreement; and be it

FURTHER RESOLVED, The City shall pay Base Rent of $2,100.00 per month for the initial year of the Agreement to May 31, 2013, increasing four percent annually against the base rate of $1,400/month thereafter, through May 31, 2017, inclusive of utility expenses; and be it

FURTHER RESOLVED, That the Agreement shall include a clause mutually indemnifying, holding harmless, and defending each other from and against any and all claims, costs and expenses, including without limitation, reasonable attorney fees incurred as a result of any default in the performance of any of its material obligations under the Lease, or any negligent acts or omissions of either party, in, on or about the Premises or the property on which the Premises are located, excluding those claims, costs and expenses; and be it
expenses incurred as a result of the negligence or willful misconduct of either party, and
said indemnities shall extend back to the date City first used and occupied the Premises;
and be it

FURTHER RESOLVED, That any action taken by any City employee or official with
respect to this Lease is hereby ratified and affirmed; and be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Acting
Director of Property to enter into any amendments or modifications to the Agreement
(including without limitation, the exhibits) that the Acting Director of Property determines, in
consultation with the City Attorney, are in the best interest of the City, do not increase the
rent or otherwise materially increase the obligations or liabilities of the City, are necessary
or advisable to effectuate the purposes of the Agreement or this resolution, such
determination to be conclusively evidenced by the execution and delivery by the Acting
Director of Property of any amendments thereto in compliance with all applicable laws,
including City's Charter; and, be it

FURTHER RESOLVED, That City shall occupy said premises for the entire term
unless funds for rental payments are not appropriated in any subsequent fiscal year, at
which time City may terminate the Agreement with written notice to Landlord pursuant to
Section 3.105 of the Charter of the City and County of San Francisco.

$ 15,237.50   Available
Index: 770218
Sub-object: 08011

[Signature]
Controller

Mayor Lee
BOARD OF SUPERVISORS
RECOMMENDED:

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

September 26, 2012 Budget and Finance Committee - RECOMMENDED

October 02, 2012 Board of Supervisors - ADOPTED
Ayes: 10 - Avalos, Campos, Chiu, Chu, Cohen, Eisbernd, Kim, Mar, Olague and Wiener
Excused: 1 - Farrell

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

Angela Calvillo
Clerk of the Board

Mayor
Date Approved