Resolution authorizing a License Amendment which extends the original license for ten years beyond the current license expiration of January 31, 2019, to January 31, 2029, for antenna and related space at 1250 Jones Street, with the Clay-Jones Apartment Owner's Association, a California corporation, at $11,286.25 monthly; which amount shall increase annually on each February 1 beginning in 2016, plus a one time fee of $25,000 for $162,974.41 total rent in the first year for the period estimated to be November 1, 2015, through October 31, 2016.

WHEREAS, The Clay-Jones Apartment Owner's Association, as landlord, and Motorola Inc., as tenant, entered into that certain Lease, dated October 1, 1996, pursuant to which Motorola Inc. leased from landlord certain premises and antennae space in and on the Site, which lease was modified by an Addendum to Lease, dated as of March 1, 1998, (as so modified, the "Motorola Lease"); and

WHEREAS, Pursuant to its rights under the Motorola Lease, Motorola Inc., as licensor, and City, as Licensee, entered into that certain Antenna Site License, executed as of December 27, 1998, (the "Original License"), pursuant to which Motorola granted to City the right to install, operate and maintain certain radio communication equipment and related equipment and an emergency back-up generator on the Site; and

WHEREAS, Motorola Inc. has assigned to the Clay-Jones Apartment Owner's Association and the Clay-Jones Apartment Owner's Association assumed from Motorola Inc., all of Motorola Inc.'s rights and obligations as Licensor under the Original License, and Licensor is successor to all of Motorola's interest in the Original License; and
WHEREAS, 1250 Jones Street is located near the top of Nob Hill in San Francisco and provides excellent radio transmission coverage from a tower mounted on the roof; and

WHEREAS, The 1250 Jones Street site is one of eight antennae sites in the City which provide the City’s public safety (Police, Fire, and the City’s other first responders) radio and communications systems; and

WHEREAS, The City’s equipment currently located at 1250 Jones Street includes (1) an equipment room in the main building; (2) microwave dishes, omni-directional antennas and panel antennas mounted on the tower and the roof of the building (3) space for City’s HVAC equipment on the building roof; (4) space for City’s emergency generator also on the building roof; (5) conduits, panels, and equipment necessary to connect such emergency generator to the City’s equipment; (6) conduits, panels and equipment necessary to connect fiber between the City’s equipment in the building and the tower to City’s fiber network in the street; and (7) connection of City equipment to the building’s grounding system; and

WHEREAS, The term of the Original License is presently scheduled to expire on January 31, 2019; and

WHEREAS, San Francisco Department of Technology (DT) and San Francisco Department of Emergency Management (DEM) who maintain the radio communication system report the need to extend the License beyond 2019 to maintain public safety radio communications; and

WHEREAS, DT and DEM also report the need to upgrade the current facilities and the replacement project has been identified as a major IT Initiative in the City’s Five-Year Information & Communication Technology Plan for Fiscal Years 2016-2020, which was approved by the Board of Supervisors on April 21, 2015, and
WHEREAS, The City has allocated $21.8 in funding in FY2015-2016 through FY2016-2017 to begin a project to replace the current system; and

WHEREAS, The lease amendment will facilitate and support the improvements needed for the radio system to continue operations for the next 10-15 years; and

WHEREAS, The Real Estate Division has negotiated a proposed First Amendment to Antenna Site License ("Agreement") for an extension with the Clay-Jones Apartment Owner’s Association, a California corporation, as Licensor which would provide the continuation of the necessary facilities to operate the public safety radio transmission facility for up to 30 years (10 year initial lease term beyond the current 2019 License expiration date plus four 5-year options at a known rentals) for the existing Premises which also (i) allows for DT/ DEM’s Radio Replacement Project and (ii) provides for equipment flexibility over the 30 year term to add and remove antennas as warranted by the City’s communications needs; and

WHEREAS, The Agreement is subject to enactment of a resolution by the Board of Supervisors and the Mayor, in their respective sole and absolute direction, approving and authorizing such Agreement; now, therefore, be it

RESOLVED, In accordance with the recommendation of the Director of the Department of Emergency Management and the Director of the Real Estate Division, that the Director of Property is hereby authorized on behalf of the City and County of San Francisco as Licensee, to execute an Amendment, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 150966, for an additional period of ten years on the terms and conditions contain therein with the Clay-Jones Apartment Owner’s Association, a California corporation, as Licensor; and, be it
FURTHER RESOLVED, The Agreement shall commence upon the mutual execution of the Agreement (expected to be about November 1, 2015), and expire on January 31, 2029, and, be it

FURTHER RESOLVED, That the Base Rent will be $11,286.25 per month which shall increase annually by 2.5% on February 1, 2016, February 1, 2017, and February 1, 2018, and then by 4% on each February 1, beginning in 2019; and, be it

FURTHER RESOLVED, City shall pay a one time fee of $25,000; and, be it

FURTHER RESOLVED, That City agrees to indemnify, defend and hold harmless Landlord and its agents from and against any and all claims, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred as a result of (a) City's use of the premises, (b) any default by City in the performance of any of its obligations under this lease, or (c) any negligent acts or omissions of City or its agents, in, on or about the premises or the property; provided, however, City shall not be obligated to indemnify Landlord or its agents to the extent any claim arises out of the active negligence or willful misconduct of Landlord or its agents; and, be it

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

FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of Property to enter into any amendments or modifications to the License (including without limitation, the exhibits) that the 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 by more than fifteen percent (15%), are necessary or advisable to effectuate the purposes of the License or this resolution, and are in compliance with all applicable laws, including City's Charter; and, be it
FURTHER RESOLVED, City shall occupy said premises for the entire lease term unless funds for rental payments are not appropriated in any subsequent fiscal year, at which time City may terminate this lease with written notice to Landlord, pursuant to Charter, Section 3.105, of the City and County of San Francisco; and, be it

FURTHER RESOLVED, That within thirty (30) days of the agreement being fully executed by all parties, the Director of Real Estate shall provide a copy of the Agreement to the Clerk of the Board for inclusion into the official file.
RECOMMENDED: $116,700.78 Total Available (Base Rent 11/1/15 to 6/30/16 Plus $25,000)

Index Code: 770218
Fund: 1GAGFAAA

Controller

Director of Property

Anne Kronenberg  
Executive Director

Director  
Department of Emergency Management
File Number: 150966  Date Passed: October 27, 2015

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October 21, 2015 Budget and Finance Committee - RECOMMENDED

October 27, 2015 Board of Supervisors - ADOPTED
Ayes: 9 - Breed, Campos, Christensen, Cohen, Farrell, Kim, Tang, Wiener and Yee
Excused: 2 - Avalos and Mar

File No. 150966  I hereby certify that the foregoing Resolution was ADOPTED on 10/27/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo  Clerk of the Board

[Signature]  Date Approved  11/4/15