

1 [Lease of Real Property Renewal - BRCP 1390 Market, LLC]

2

3 **Resolution authorizing a lease amendment to extend the term of the City Attorney lease**
4 **with BRCP 1390 Market, LLC, for premises at 1390 Market Street (Fox Plaza), consisting**
5 **of approximately 69,402 square feet, by five years and granting to the City two**
6 **additional five year extension options.**

7

8 WHEREAS, The City Attorney has occupied space at 1390 Market Street (Fox Plaza)
9 since the 1980s; and

10 WHEREAS, The current lease between the City and BRCP 1390 Market LLC,
11 consisting of 69,402 square feet (the "Premises"), for the space used by the City Attorney (the
12 "Lease") expires on December 31, 2012, and the City has no options to extend the term; and

13 WHEREAS, The Premises provide good proximity to the City Attorney's Office at City
14 Hall and to other City Departments; and

15 WHEREAS, A portion of the Premises (approximately 3601 square feet) is used by
16 Marin Day School for use as infant care facilities which provides valuable services to the City;
17 and

18 WHEREAS, The Director of Property has negotiated an amendment to the Lease to
19 extend the term for five (5) years, to December 31, 2017, and to provide to the City two
20 extension options, each for a term of five (5) years (potentially extending the term to
21 December 31, 2027) at ninety-five percent (95%) of the then fair market rent, with each
22 extension option subject to the prior approval of the Board of Supervisors (a copy of the
23 proposed Lease amendment is on file with the Clerk of the Board in File No. 120280; the
24 "Lease Amendment"); and

25

1 WHEREAS, The Director of Property has determined that the proposed rental rate for
2 the five (5) year extension as set forth in the Lease Amendment is equal to or less than fair
3 market rent for the Premises; now, therefore, be it

4 RESOLVED, That in accordance with the recommendation of the City Attorney and the
5 Director of Property, the Board approves the Lease Amendment in substantially the form in
6 the Board's File and authorizes the Director of Property to execute and deliver the Lease
7 Amendment, and authorizes City staff to take all actions, on behalf of the City, to perform its
8 obligations and exercise its rights under the Lease as amended by the Lease Amendment;
9 and, be it

10 FURTHER RESOLVED, As set forth in the Lease Amendment, (i) the Lease shall
11 terminate on December 31, 2017, subject to the City's extension rights, (ii) the monthly base
12 rent for the period from January 1, 2013 to December 31, 2017 shall be \$173,505
13 (approximately \$30.00 per square foot), and (iii) base rent shall be abated for the first three (3)
14 months of the extended term (from January through March 2013); and, be it

15 FURTHER RESOLVED, As set forth in the Lease Amendment, the City shall pay for its
16 prorata share of operating expenses over a 2013 base year, electricity costs on a 48,265
17 square feet of the Premises, and for other typical tenant expenses; and, be it

18 FURTHER RESOLVED, That the City shall continue to use a portion of the Premises
19 for provision of childcare services by Marin Day School, a California non-profit corporation (or
20 any successor day care provider) for \$1 per year, providing a service that lessens the burden
21 of government; and, be it

22 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
23 with respect to the Lease Amendment are hereby approved, confirmed and ratified; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
25 Property to enter into any amendments or modifications to the Lease (including without

1 limitation, the exhibits) that the Director of Property determines, in consultation with the City
2 Attorney, are in the best interest of the City, do not materially increase the obligations or
3 liabilities of the City, do not materially decrease the benefits to the City, or are necessary or
4 advisable to effectuate the purposes of the Lease Amendment or this resolution, and are in
5 compliance with all applicable laws, including City's Charter; and, be it

6 FURTHER RESOLVED, That the City shall occupy the entire Premises for the full term
7 of the Lease (as amended) unless funds for the City's rental payments are not appropriated in
8 any subsequent fiscal year at which time City may terminate the lease with reasonable
9 advance written notice to Landlord. Such termination shall then be effective upon surrender
10 of the Premises. Said Lease shall be subject to certification as to funds by the Controller,
11 pursuant to Section 3.105 of the Charter.

12
13 \$520,515.00 Available
14 (Rent 4/1/013 to 6/30/13)
15 Index No. 035004- 03011

16 _____
17 Controller
18 Subject to the enactment of the 2012/2013
19 Annual Appropriation Ordinance

20 RECOMMENDED:

21 _____
22 City Attorney

23 _____
24 Director of Property
25 Real Estate Division