

File No. 100349

Committee Item No. 6
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Sub - Committee: Budget and Finance

Date: April 28, 2010

Board of Supervisors Meeting

Date: _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
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OTHER

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Completed by: Andrea S. Ausberry

Date Friday, April 23, 2010

Completed by: _____

Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Lease of Real Property – 1390 Market Street]

2
3 **Resolution authorizing the exercise of a five year option to extend the lease of**
4 **approximately 9,397 square feet of space at 1390 Market Street for the Department of**
5 **Children, Youth and their Families.**

6
7 WHEREAS, The City and API Fox Plaza, LLC., Landlord, executed a lease dated
8 March 6, 2006, authorized by Resolution 840-05 for Premises consisting of 9,397 sq. ft. in
9 Suites 900, 902, and 903 at the building commonly known as Fox Plaza, 1390 Market Street;
10 and

11 WHEREAS, BRCP 1390 Market, LLC, is successor in interest to API Fox Plaza, LLC.;

12 and

13 WHEREAS, Such Lease expires on November 30, 2010 and contains an option to
14 extend the terms for another five years on the same terms and conditions except that the
15 Base Monthly Rental is to be adjusted to 95% of the market rental value; and

16 WHEREAS, Pursuant to the terms of such option, the Real Estate Division and the
17 Landlord have negotiated such 95% of fair market rental, considering all factors; and

18 WHEREAS, Such terms for the option are subject to enactment of a resolution by the
19 Board of Supervisors and the Mayor, in their respective sole and absolute direction, approving
20 and authorizing such exercise; now, therefore, be it

21 RESOLVED, That in accordance with the recommendation of the Director of the
22 Department of Children, Youth and their Families and the Director of Property, the Director of
23 Property is hereby authorized to take all actions on behalf of the City and County of San
24 Francisco, as tenant, to extend the Lease (copy of original lease on file with the Clerk of the
25 Board) with BRCP 1390 Market, LLC ("Landlord"), for the building commonly known as Fox

1 Plaza, 1390 Market Street, San Francisco, California, for the area of approximately 9,397sq.
2 ft. (the "Premises") on the terms and conditions set forth herein, and on a form approved by
3 the City Attorney; and, be it

4 FURTHER RESOLVED, That the Lease extension shall be for a term of 5 years at a
5 base rent of \$19,185.54 per month, (approximately \$24.50 per sq. ft. annually), fully serviced.
6 Beginning December 1, 2011, the base rate shall be annually increased by \$783.08 per month
7 (approximately \$1.00 psf per year). The Landlord shall pay for utilities, janitorial services, and
8 building maintenance and repairs; and, be it

9 FURTHER RESOLVED, That the Lease shall continue to include the lease clause,
10 indemnifying, holding harmless, and defending Landlord and its agents from and against any
11 and all claims, costs and expenses, including without limitation, reasonable attorneys' fees,
12 incurred as a result of any default by the City in the performance of any of its material
13 obligations under the Lease, or any negligent acts or omissions of the City or its agents, in,
14 on, or about the Premises or the property on which the Premises are located, excluding those
15 claims, costs and expenses incurred as a result of the negligence or willful misconduct of the
16 Landlord or its agents; and, be it

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

19 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
20 Property to enter into any amendments or modifications to the Lease (including, without
21 limitation, the exhibits) that the Director of Property determines, in consultation with the City
22 Attorney, are in the best interest of the City, do not increase the rent or otherwise materially
23 increase the obligations or liabilities of the City, are necessary or advisable to effectuate the
24 purposes of the Lease renewal or this resolution, and are in compliance with all applicable
25 laws, including the City Charter; and, be it

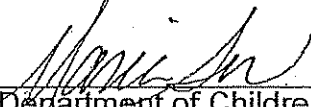
1 FURTHER RESOLVED, That the City shall occupy the entire Premises for the full term
2 of the Lease unless funds for the Department of Children, Youth and their Families' rental
3 payments are not appropriated in any subsequent fiscal year at which time the City may
4 terminate the Lease with advance notice to Landlord. Said Lease shall be subject to
5 certification as to funds by the Controller, pursuant to Section 6.302 of the City Charter.

6
7 \$235,903.79 Available
8 (5 mos. @ \$20,321.02 plus
9 7 mos. @ \$19,185.54)
10 Children's Fund 235002

11 
12 _____
13 Controller

14 Subject to the enactment of the Annual Appropriation
15 Ordinance for Fiscal Year 2010/2011.

16 **RECOMMENDED:**

17 
18 _____
19 Department of Children, Youth and their Families

20 
21 _____
22 Director of Property
23 Real Estate Division
24
25

Item 6 File 10-0349	Department(s): Department of Children, Youth and their Families (DCYF) and Real Estate Division (RED)
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EXECUTIVE SUMMARY**Legislative Objective**

- The proposed resolution would authorize the City and County of San Francisco, acting by and through the Real Estate Division (RED), to exercise a five-year option to an existing lease with BRCP 1390 Market, LLC (BRCP) at 1390 Market Street, known as Fox Plaza, from December 1, 2010 through November 30, 2015, for the Department of Children, Youth and their Families (DCYF).

Key Points

- On December 16, 2005, the Board of Supervisors approved DCYF's existing five-year lease in Fox Plaza, from December 1, 2005 through November 30, 2010, with two five-year options (File No. 05-1810). The 9,397 square feet of space on the ninth floor of 1390 Market Street is used for offices and public programs for DCYF. The monthly rent for the existing lease is \$20,321, or \$2.16 per square foot, which is funded with the Children's Fund. The monthly rent includes the cost for all general maintenance and repairs, janitorial services, and utilities.

Fiscal Impact

- Under the existing lease, the Base Monthly Rent for the proposed five-year option period would be adjusted to 95 percent of the fair market value. The average monthly five-year fair market value rent of the proposed space is approximately \$21,844, as determined by the RED in February of 2010. Ninety-five percent of \$21,844 is \$20,752, which is the average monthly rent to be paid over the five-year option period. The proposed average monthly rent of \$20,752, or approximately \$2.21 per square foot per month, over the five-year option period includes anticipated increases to the cost of all general maintenance and repairs, janitorial services, and utilities. The average monthly rent of \$20,752 is \$431, or 2.12 percent, more than the current monthly rent of \$20,321.
- The actual monthly rent to be paid for the proposed five-year option period would be (a) \$19,186, or \$2.04 per square foot, in Option Year 1, (b) \$19,969, or \$2.13 per square foot, in Option Year 2, (c) \$20,752, or \$2.21 per square foot, in Option Year 3, (d) \$21,535, or \$2.29 per square foot, in Option Year 4, and (e) \$22,318, or \$2.38 per square foot, in Option Year 5.
- The total cost of rent for the five-year option period would be \$1,245,120.

Recommendation

- Approve the proposed resolution.

BACKGROUND/MANDATE STATEMENT

Background

On December 16, 2005, the Board of Supervisors approved the existing lease between the City and County of San Francisco, acting by and through the Real Estate Division (RED), and API Fox Plaza, LLC, for the five-year period from December 1, 2005 through November 30, 2010, with two five-year options to extend the term of the lease (File No. 05-1810). The 9,397 square feet of space on the ninth floor of 1390 Market Street, known as Fox Plaza, is used for offices and public programs for the Department of Children, Youth and their Families (DCYF). In June of 2007, BRCP 1390 Market, LLC (BRCP) became the owner of Fox Plaza. The DCYF provides funding to community-based organizations, City departments, and the San Francisco Unified District for (a) early child care and education, (b) family support, (c) health and wellness, (d) out-of-school time, (e) violence prevention and intervention, (f) youth empowerment, and (g) youth workforce development.

Under the existing lease, DCYF pays monthly rent of \$20,321, or \$2.16 per square foot (\$243,852 annually or \$25.95 per square foot annually). The monthly rent includes the cost for all general maintenance and repairs, janitorial services, and utilities¹. The rent is funded with the Children's Fund².

Mandate Statement

In accordance with Administrative Code Section 23.27, leases, in which the City is the lessee, require approval by the Board of Supervisors.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the RED to exercise the first five-year option to extend the lease between DCYF and BRCP, from December 1, 2010 through November 30, 2015. Under the proposed five-year lease extension, the space will remain at 9,397 square feet and DCYF will pay monthly rent, as shown in Table 1 below.

Table 1: Monthly Rent for the Proposed Extension Period

Period	Monthly Rent per Square Foot	Monthly Rent
Option Year 1: December 1, 2010 – November 30, 2011	\$2.04	\$19,186
Option Year 2: December 1, 2011 – November 30, 2012	\$2.13	\$19,969
Option Year 3: December 1, 2012 – November 30, 2013	\$2.21	\$20,752
Option Year 4: December 1, 2013 – November 30, 2014	\$2.29	\$21,535
Option Year 5: December 1, 2014 – November 30, 2015	\$2.38	\$22,318
Average	\$2.21	\$20,752

Source: Real Estate Division

¹ Utilities include: (a) heat, (b) air conditioning, (c) electric, (d) water/sewer, (f) waste removal, (g) security services, and (h) elevator services.

² On November 6, 2000, San Francisco voters approved the Children's Fund (Proposition D), which dedicates 2½ cents per \$100 of Property Tax collections for children services.

FISCAL ANALYSIS

Monthly Rent Comparison

The average monthly rent during the five-year option period is \$20,752, or \$2.21 per square foot per month, which is approximately \$431, or 2.12 percent more than the current monthly rent of \$20,321, or \$2.16 per square foot per month.

Under the existing lease, the Base Monthly Rent for the proposed five-year option period would be adjusted to 95 percent of the fair market value. According to Mr. Charlie Dunn, Principal Real Property Officer at RED, the fair market value of the proposed space is an average monthly amount of \$21,844 over the five-year option period, as determined by the RED in February of 2010. Ninety-five percent of \$21,844 is \$20,752. According to Mr. Dunn, the proposed average monthly rent of \$20,752, or \$2.21 per square foot per month, over the five-year option period includes anticipated increases to the cost of all general maintenance and repairs, janitorial services, and utilities.

Total Rent of the Five-year Option Period

As shown in Table 2 below, the total cost of DCYF's rent for the five-year option period would be \$1,245,120.

Table 2: Monthly Rent for the Proposed Five-year Option to Extend Period

Period	Per Monthly Square Foot	Monthly Rent	Annual Rent
Option Year 1: December 1, 2010 – November 30, 2011	\$2.04	\$19,186	\$230,232
Option Year 2: December 1, 2011 – November 30, 2012	\$2.13	\$19,969	239,628
Option Year 3: December 1, 2012 – November 30, 2013	\$2.21	\$20,752	249,024
Option Year 4: December 1, 2013 – November 30, 2014	\$2.29	\$21,535	258,420
Option Year 5: December 1, 2014 – November 30, 2015	\$2.38	\$22,318	267,816
		Total	\$1,245,120

Source: Real Estate Division

Revenues Appropriated for DCYF's Rental Payments

During the FY 2009-2010 annual budget process, the Board of Supervisors approved \$329,200 for DCYF's rent. Based on DCYF's existing lease in Fox Plaza, DCYF will expend an estimated \$243,852 (\$20,321 x 12 months) for their rent in FY 2009-2010, or \$85,348 less than the previously appropriated funds. According to Ms. Taras Madison, Director of Budget, Operations & Grant Support for DCYF, the balance of \$85,348 is projected to be used to rent facilities for community-based organization trainings and meetings. All funding for rent for the five-year option period for DCYF will be subject to Board of Supervisors appropriations approval.

RECOMMENDATION

Approve the proposed resolution.

OFFICE LEASE

between

API FOX PLAZA, LLC,
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant

For the lease of

Fox Plaza, 1390 Market Street
Suites 900, 902, and 903 on the Ninth Floor
San Francisco, California

March 6, 2006

OFFICE LEASE

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