

1 [Lease of Real Property – 1390 Market Street]

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3 **Resolution authorizing the exercise of a five year option to extend the lease of**
4 **approximately 25,939 square feet of space at 1390 Market Street for the Department of**
5 **Public Health.**

6

7 WHEREAS, The City and Calfox, Inc., Landlord, executed a lease dated September 9,
8 1996, authorized by Resolution 699-96 and the term was extended by Resolution 159-03 for
9 Premises consisting of 25,939 sq. ft. at the building commonly known as Fox Plaza, 1390
10 Market Street; and

11 WHEREAS, BRCP 1390 Market, LLC, is successor in interest to Calfox; and

12 WHEREAS, Such Lease expires on November 30, 2008 and contains an option to
13 extend the terms for another five years on the same terms and conditions except that the
14 Base Monthly Rental is to be adjusted to 95% of the market rental value; and

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

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

20 RESOLVED, That in accordance with the recommendation of the Director of the
21 Department of Public Health and the Director of Property, the Director of Property is hereby
22 authorized to take all actions on behalf of the City and County of San Francisco, as tenant, to
23 extend the Lease (copy of original lease on file in File No. 080121 with the Clerk of the
24 Board) with BRCP 1390 Market, LLC ("Landlord"), for the building commonly known as Fox
25 Plaza, 1390 Market Street, San Francisco, California, for the area of approximately 25,939 sq.

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1 ft. (the "Premises") on the terms and conditions set forth herein, and on a form approved by
2 the City Attorney; and, be it

3 FURTHER RESOLVED, That the Lease extension shall be for a term of 5 years at a
4 monthly rental of \$70,062.00, (approximately \$32.41 per sq. ft. annually), fully serviced except
5 that City shall continue to pay for separately metered electricity on approximately 14,549 sq.
6 ft. The Landlord shall pay for the other utilities, janitorial services, and building maintenance
7 and repairs. City shall pay for the standard operating expense increases over a new 2009
8 Base Year; 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

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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 Public Health's rental payments are not
3 appropriated in any subsequent fiscal year at which time the City may terminate the Lease
4 with advance notice to Landlord. Said Lease shall be subject to certification as to funds by
5 the Controller, pursuant to Section 6.302 of the City Charter.

6
7 \$716,768.90 Available
8 (5 mos. @\$45,266.98)
9 (7 mos. @\$70,062.00)
10 HCHPBADMINGF
11 HCHPBHAZWTPJ
12 HCHPBWATERPJ
13 HCHPHLEAD-GR

14 _____
15 Controller

16 Subject to the enactment of the Annual Appropriation
17 Ordinance for Fiscal Year 2009/2010.

18 **RECOMMENDED:**

19 _____
20 Department of Public Health

21 _____
22 Director of Property
23 Real Estate Division