

1 [Real Property Lease Extension - BRCP 1390 Market, LLC - 1390 Market Street - \$3,898,578
2 in Initial Year]

3 **Resolution approving the Fourth Amendment to a lease between BRCP 1390 Market,**
4 **LLC, as Landlord, and the City and County of San Francisco, as tenant, for**
5 **approximately 69,402 square feet at 1390 Market Street (Fox Plaza), for use by the**
6 **Office of the City Attorney at an initial annual rent of \$3,898,578.41 (or \$354,416.22 per**
7 **month with one month abated) and 3% annual increases thereafter, extending the term**
8 **for five years from January 1, 2018, to December 31, 2022; and approving the continued**
9 **use of a portion of the premises for child care services.**

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

13 WHEREAS, The City Attorney space at Fox Plaza provides good proximity to City Hall
14 and to the Superior Court, Federal Court, and City departments in the Civic Center area; and

15 WHEREAS, The current lease between the City and BRCP 1390 Market LLC
16 (“Landlord”) for approximately 69,402 square feet of space at Fox Plaza (the “Lease”) expires
17 on December 31, 2017, but includes two 5-year extension options each at 95% of the market
18 rental value; and

19 WHEREAS, The City’s Real Estate Division and Landlord have determined that 95% of
20 fair market rental, considering all factors, for the five (5) year extension period is equal
21 to \$354,416.22 per month (approximately \$61.28 per square foot, annually) with annual three
22 percent (3%) increases starting in January 2019; and

23 WHEREAS, The proposed rent was found to be less than fair market rent by an
24 independent MAI appraisal, and this determination was confirmed by an appraisal review,
25 consistent with Administrative Code Chapter 23; and

1 WHEREAS, The Real Estate Division and Landlord have negotiated an amendment to
2 the Lease, substantially in the form on file with the Clerk of the Board in File No. _____
3 (the “Lease Amendment”); now, therefore, be it

4 RESOLVED, That in accordance with the recommendation of the City Attorney and the
5 Director of Property, the Board of Supervisors approves the Lease Amendment and
6 authorizes the Director of Real Estate to take all actions necessary to enter into and perform
7 the City’s obligations under the Lease Amendment; and, be it

8 FURTHER RESOLVED, As set forth in the Lease Amendment, (i) the extension term
9 shall commence upon January 1, 2018, and terminate on December 31, 2022; (ii) the monthly
10 base rent for the period from January 1, 2018, to December 31, 2019, shall be \$354,416.22
11 with 3% increases starting on January 1, 2019; (iii) the City shall pay for its prorata share of
12 operating expenses over a 2018 base year, and shall continue to pay its separately metered
13 electricity costs for 48,265 square feet of the Premises and for other typical tenant expenses;
14 and (iv) the base rent shall be abated for one month of the extended term; and, be it

15 FURTHER RESOLVED, That the City shall continue to use a portion of the Premises
16 for provision of childcare services by Marin Day School or other day care provider for \$1 per
17 year (the “Day Care License”), providing a service that lessens the burden of government and
18 is consistent with the requirements of Chapter 29B of the Administrative Code; 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 or the Day Care License
21 (including without limitation, the exhibits) that the Director of Property determines, in
22 consultation with the City Attorney, are in the best interest of the City, do not materially
23 increase the obligations or liabilities of the City, do not materially decrease the benefits to the
24 City, or are necessary or advisable to effectuate the purposes of this resolution, and are in
25 compliance with all applicable laws; and, be it

1 FURTHER RESOLVED, That the City shall occupy the Premises for the full term of the
2 Lease (as amended) unless funds for the City's rental payments are not appropriated in any
3 subsequent fiscal year at which time City may terminate the Lease as set forth in the Lease;
4 and, be it

5 FURTHER RESOLVED, That within thirty (30) days of the execution of the Lease
6 Amendment, the Director of Real Estate shall provide a copy to the Clerk of the Board for the
7 Board's file.

8 Signatures on next Page

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\$2,813,111.09 Available
(6 months current rent plus 5 months
extension rent)
Index No. 035004- 03011

Controller
Subject to the enactment of the 2017/2018
Annual Appropriation Ordinance

RECOMMENDED:

City Attorney

Director of Property
Real Estate Division