

1 [Real Property Lease Extension - SFII 1390 MARKET ST, LLC - 1390 Market Street - Not to
2 Exceed \$4,959,042 in Initial Year]

3 **Resolution approving a lease amendment extending the term from January 1, 2023 to**
4 **the date that is 5 years after the completion of certain tenant improvements for**
5 **approximately 75,137 square feet at 1390 Market Street (Fox Plaza), with SFII 1390**
6 **MARKET ST, LLC as Landlord, for use by the Office of the City Attorney, at an initial**
7 **annual rent of \$4,959,042 (or \$413,253.50 per month) with 3% annual increases**
8 **thereafter, and City contributing \$1,600,000 toward the cost of the tenant**
9 **improvements; and approving the continued use of a portion of the premises for**
10 **childcare services.**

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12 WHEREAS, The City Attorney’s Office has occupied space at 1390 Market Street (Fox
13 Plaza; the “Building”) since the 1980s; and

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

17 WHEREAS, The current lease between the City and SFII 1390 MARKET ST, LLC
18 (“Landlord”) for approximately 69,402 square feet of space at the Building (the “Lease”)
19 expires on December 31, 2022, but includes an option to extend the term for an additional five
20 years; and

21 WHEREAS, The City’s Real Estate Division and Landlord have negotiated a lease
22 amendment (the “Fifth Amendment”) to: (i) extend the Lease term for 5 years from the date of
23 the substantial completion of identified tenant improvements; (ii) relocate the City Attorney’s
24 Office from space on the tenth floor to the fourth floor of the Building at no cost to the City,
25 and increase the total square footage leased by the City by approximately 5,735 square feet;

1 (iii) make tenant improvements to the fourth floor premises with a City contribution of One
2 Million Six Hundred Thousand Dollars (\$1,600,000) toward the cost of these improvements;
3 (iv) reduce the annual base rent payable under the Lease in 2023 to \$66 per square foot and
4 set a new base year of 2023, such that the operating expenses and real property taxes are
5 included in the base rent for calendar year 2023; (v) increase the base rent by 3% each year,
6 starting in January 2024; (vi) provide the City with a right of first opportunity to purchase the
7 office portion of the Building if Landlord decides to sell the office portion of the Building; and
8 (vii) make certain other amendments to the Lease; and

9 WHEREAS, A copy of the proposed Fifth Amendment is on file with the Clerk of the
10 Board in File No. 220931; and

11 WHEREAS, The base rent for 2023 totals \$4,959,042 (or \$413,253.50 per month),
12 but the City will receive one month of free rent (the “rent abatement”) in June 2023; and

13 WHEREAS, The Fifth Amendment permits the City to use the rent abatement if
14 needed to pay for City change orders during construction of the tenant improvements on
15 the fourth floor; and

16 WHEREAS, The proposed monthly base rent of \$413,253.50 (or \$66 per square foot
17 per year) was found to be less than fair market rent by an independent MAI appraisal, and
18 this determination was confirmed by an appraisal review, consistent with Administrative
19 Code Chapter 23; and

20 WHEREAS, Starting in 2024, City will pay its pro-rata share of increases in the
21 Building’s operating expenses and property taxes over the new base year of 2023; and

22 WHEREAS, The City’s exercise of the extension option or the right of first opportunity
23 to purchase the Building are subject to the approval of the Board of Supervisors, in its sole
24 discretion; now, therefore, be it

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

5 FURTHER RESOLVED, That the City shall have the right (but not the obligation) to
6 continue to use a portion of the premises for childcare services by a licensed day care
7 provider for \$1 per year (the “Day Care License”), providing an important service that lessens
8 the burden of government and is consistent with the requirements of Chapter 29B of the
9 Administrative Code; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
11 Property to enter into any amendments to the Lease or the Day Care License (including
12 without limitation, the exhibits) that the Director of Property determines, in consultation with
13 the City Attorney, are in the best interest of the City, do not materially increase the obligations
14 or liabilities of the City, do not materially decrease the benefits to the City, or are necessary or
15 advisable to effectuate the purposes of this resolution, and are in compliance with all
16 applicable laws; and, be it

17 FURTHER RESOLVED, That within 30 days of the execution of the Fifth Amendment,
18 the Director of Real Estate shall provide a copy to the Clerk of the Board for the Board’s file.

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\$2,384,893.50 Available
(First 6 months of 2023)

Fund ID:	10000
Department ID:	229042
Project Authority ID:	10001638
Account ID:	530110
Activity ID:	0004
Authority ID:	10000

/s/
Ben Rosenfield
Controller

(Last 6 months of 2023 subject to the
enactment of the 2022/2023 Annual
Appropriation Ordinance)

RECOMMENDED:

/s/
Katharine Hobin Porter
Managing Attorney

/s/
Andrico Penick
Director of Property

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