

AMENDMENT OF THE WHOLE
3/19/03

FILE NO. 021876

RESOLUTION NO.

1 [Real Property Lease Option]

2

3 **Resolution retroactively authorizing the exercise of an extension option at 875**
4 **Stevenson Street for various City departments.**

5

6 WHEREAS, The City and County of San Francisco ("City") entered into a lease (the
7 "Original Lease") with the Western Mart Co., a California general partnership, dba San
8 Francisco Mart (predecessor-in-interest to current landlord, Western Mart Co., L.P., a
9 California limited partnership) to accommodate several different City departments, and the
10 Original Lease, a copy of which is on file with the Clerk of the Board of Supervisors, was
11 approved by the Board of Supervisors on March 21, 1994; and

12 WHEREAS, The Board of Supervisors approved the first amendment to the Original
13 Lease (the "First Amendment," and together with the Original Lease, the "Lease") on
14 November 4, 1996, a copy of which is on file with the Clerk of the Board of Supervisors, and
15 the First Amendment provides, among other things, that City may extend the lease term for
16 the entire premises for up to seven and one-half years (collectively, the "Extension Option");
17 and,

18 WHEREAS, A seven and one-half year extension of the Lease (the "Extended Lease
19 Term") on the terms and conditions set forth below is in the interest of the City; now, therefore,
20 be it

21 RESOLVED, That in accordance with the recommendation of the Director of Property,
22 the Director of Property is hereby authorized to retroactively exercise the Extension Option by
23 executing a written lease extension notice ("Lease Extension Notice") that extends the term of
24 the Lease with Western Mart Co., L.P., dba San Francisco Mart, as Landlord, for a term of
25 seven and one-half years from December 1, 2002 to May 31, 2010, for the premises located

(Real Estate)

BOARD OF SUPERVISORS

Page 1

3/20/03

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1 at 875 Stevenson Street, San Francisco, California, comprising an area of 158,442 square
2 feet on the terms and conditions contained herein and on a form approved by the City
3 Attorney; and, be it

4 FURTHER RESOLVED, That unless funds for rental payments are not appropriated in
5 any subsequent City fiscal year, at which time the City may terminate the Lease with advance
6 notice to the Landlord, the base rent for the fully serviced premises from December 1, 2002
7 through May 31, 2010, shall be as follows:

| Year | \$/Square Foot | \$/Month | \$/Year |
|---------------------|----------------|------------|--------------|
| 1: 12/1/02-11/30/03 | 17.00 | 224,459.50 | 2,693,514.00 |
| 2: 12/1/03-11/30/04 | 17.00 | 224,459.50 | 2,693,514.00 |
| 3: 12/1/04-11/30/05 | 22.00 | 290,477.00 | 3,485,724.00 |
| 4: 12/1/05-11/30/06 | 24.00 | 316,884.00 | 3,802,608.00 |
| 5: 12/1/06-11/30/07 | 26.00 | 343,291.00 | 4,119,492.00 |
| 6: 12/1/07-11/30/08 | 26.00 | 343,291.00 | 4,119,492.00 |
| 7: 12/1/08-11/30/09 | 26.00 | 343,291.00 | 4,119,492.00 |
| 8: 12/1/09-05/31/10 | 27.00 | 356,494.50 | 2,138,967.00 |

17 ; and, be it

18 FURTHER RESOLVED, That in the first month after the adoption of this resolution,
19 Landlord shall provide a rent credit to City for the difference between the amount of rent paid
20 by City since December 1, 2002 at the holdover rate under the Lease of \$262,304.40 per
21 month (\$19.87 per square foot), and the amount of rent payable in such first month after the
22 adoption of this resolution at the rate of \$224,459.50 per month (\$17.00 per square foot); and,
23 be it

24 FURTHER RESOLVED, That City shall have the right to terminate the Lease as of
25 November 30, 2007, provided that (i) City notifies Landlord in writing by November 30, 2006,

1 of City's intention to terminate the Lease and includes with such notice a copy of a resolution
2 of the Board of Supervisors approving the termination of the Lease and confirming the
3 appropriation of funds to pay as a condition of early termination the Deferred Rent described
4 below, (ii) on or before November 30, 2007, City relocates from the premises to a building
5 either purchased or constructed by or for City, and (iii) on or before November 30, 2007, City
6 pays to Landlord a termination fee in the amount equivalent to the portion of the rent that will
7 be deferred from the first two years of the Lease Extension Term that would have been
8 recaptured by Landlord during the last two and one-half years of the Lease Extension Term,
9 plus interest at 4% compounded monthly (the "Deferred Rent"). If City terminates the Lease
10 effective November 30, 2007, as contemplated by City's early termination right described
11 above, the Deferred Rent will equal \$850,000; and, be it

12 FURTHER RESOLVED, That nothing herein shall limit or modify the City's legally
13 mandated right already set forth in the Lease to terminate the Lease without penalty at any
14 time in the event of a failure by the Board of Supervisors to appropriate sufficient funds for the
15 payment of rent, provided that in the event City terminates the Lease early for any reason
16 other than a default by Landlord, City shall pay to Landlord on or before the effective date of
17 termination, an amount equal to the amount of the Deferred Rent outstanding at the time of
18 such termination; and, be it

19 FURTHER RESOLVED, That all actions heretofore taken by the City with respect to
20 said Extension Option are hereby approved, confirmed and ratified, and that the Director of
21 Property is hereby authorized and directed to do any and all things to execute and deliver the
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1 Lease Extension Notice and all other documents in addendum with respect to the Lease
2 Extension Term, which the Director of Property or the City Attorney may deem necessary or
3 achievable to effectuate the purpose of intents of this transaction.

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5 RECOMMENDED:

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Director of Property

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