

1 [Real Property Lease Renewal and Amendment - BRCP 1390 Market, LLC - 1390 Market
2 Street - Initial Annual Base Rent of \$1,801,119.96]

3 **Resolution authorizing the potential three year renewal and amendment of a lease of**
4 **approximately 27,826 square feet of space at 1390 Market Street with BRCP 1390**
5 **Market, LLC, as Landlord, for use by the Department of Public Health at the initial**
6 **annual cost of \$1,801,119.96 (or \$150,093.33 monthly) and 3% annual increases**
7 **thereafter, for a three year term from December 1, 2018, through November 30, 2021,**
8 **subject to City’s right to terminate early, and two five-year options to extend.**

9

10 WHEREAS, The Department of Public Health - Environmental Health Section (DPH -
11 EHS) has occupied space since 1997 at the building commonly known as Fox Plaza, 1390
12 Market Street (Premises) pursuant to a lease with Calfox, Inc. dated September 9, 1996,
13 authorized by Resolution No. 699-96; and

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

15 WHEREAS, The current lease term for DPH - EHS was extended through November
16 30, 2018, by Resolution No. 174-13 for Premises consisting of 27,826 sq. ft.; and

17 WHEREAS, The DPH - EHS, has one five year option to renew the lease through
18 November 30, 2023 but such extension would take the term beyond the slated move date
19 (mid 2020) of DPH - EHS to 49 South Van Ness Avenue, forcing City to backfill or pay double
20 rent; and

21 WHEREAS, The Real Estate Division and the Landlord have negotiated the renewal of
22 the lease for three additional years through November 30, 2021, with an early termination
23 right with 270 days advanced written notice at no cost to the City and with rent at Fair Market
24 Rent; and

25

1 WHEREAS, The proposed negotiated rent was confirmed to be fair market rent by an
2 independent MAI appraisal, and this determination was confirmed by an appraisal review,
3 consistent with Administrative Code, Chapter 23; and

4 WHEREAS, The Real Estate Division and Landlord have negotiated an amendment to
5 the Lease, substantially in the form on file with the Clerk of the Board of Supervisors in File
6 No. 180070 (the "Lease Amendment"); and

7 WHEREAS, Such terms for extension are subject to enactment of a resolution by the
8 Board of Supervisors and the Mayor, in their respective sole and absolute discretion; now,
9 therefore, be it

10 RESOLVED, That in accordance with the recommendation of the Director of the
11 Department of Public Health and the Director, Real Estate Division, the Director of Property is
12 hereby authorized to take all actions on behalf of the City and County of San Francisco, as
13 tenant, to extend the Lease with BRCP 1390 Market, LLC ("Landlord"), for the building
14 commonly known as Fox Plaza, 1390 Market Street, San Francisco, California, for the area of
15 approximately 27,826 sq. ft., on the terms and conditions set forth herein, and on a form
16 approved by the City Attorney; and, be it

17 FURTHER RESOLVED, That the Lease extension shall be for a term of three years
18 through November 30, 2021, subject to City's rights to terminate as outlined in the lease, for
19 Premises consisting of 27,826 sq. ft. at a monthly rental of \$150,093.33 monthly
20 (approximately \$64.72 per sq. ft. annually) with 3% annual increases, fully serviced except
21 that City shall continue to pay for separately metered electricity on approximately 14,549 sq.
22 ft. while the Landlord shall pay for the other utilities, janitorial services, building maintenance,
23 and repairs. City shall also pay for the typical tenant expenses including standard operating
24 expense increases over a 2019 Base Year; and, be it

1 FURTHER RESOLVED, That the Lease shall continue to include the lease clause,
2 indemnifying, holding harmless, and defending Landlord and its agents from and against any
3 and all claims, costs and expenses, including without limitation, reasonable attorneys' fees,
4 incurred as a result of any default by the City in the performance of any of its material
5 obligations under the Lease, or any negligent acts or omissions of the City or its agents, in,
6 on, or about the Premises or the property on which the Premises are located, excluding those
7 claims, costs and expenses incurred as a result of the gross negligence or willful misconduct
8 of the Landlord or its agents; and, be it

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

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

18 FURTHER RESOLVED, That the City shall occupy the entire Premises for the full term
19 of the Lease unless funds for the Department of Public Health's rental payments are not
20 appropriated in any subsequent fiscal year at which time the City may terminate the Lease
21 with advance notice to Landlord; said Lease shall be subject to certification as to funds by the
22 Controller, pursuant to Section 6.302 of the City Charter.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

\$1,464,743.66 Available
(5 months @\$82,818.07/mo)
(7 months @\$150,093.33/mo)
Department ID: 251975
PS Project ID: 10026708
Activity ID: 001
Account ID: 530000

Controller

Subject to the enactment of the Annual Appropriation Ordinance for Fiscal Year 2018/2019.

RECOMMENDED:

Director
Department of Public Health

Director of Property
Real Estate Division
I:\Work\CDunn\71\7163 DPH Fox Renewal\ Legislation\2017 Reso R2.doc