

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 **December 31, 2032, for approximately 69,402 square feet at 1390 Market Street (Fox**
5 **Plaza), with SFII 1390 MARKET ST, LLC as Landlord, for use by the Office of the City**
6 **Attorney, at an initial annual rent of \$4,959,042 (or \$413,253.50 per month) with 3%**
7 **annual increases thereafter; approving the continued use of a portion of the premises**
8 **for childcare services; and to authorize the Director of Property to enter into any**
9 **amendments to the Lease or the Day Care License that do not materially increase the**
10 **obligations or liabilities to the City, do not materially decrease the benefits to the City,**
11 **and are necessary or advisable to effectuate the purposes of the lease or this**
12 **Resolution.**

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

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

19 WHEREAS, The current lease between the City and SFII 1390 MARKET ST, LLC
20 (“Landlord”) for approximately 69,402 square feet of space at the Building (the “Lease”) expires on December 31, 2022, but includes an option to extend the term for an additional five
21 years; and
22

23 WHEREAS, The City’s Real Estate Division and Landlord have negotiated a lease
24 amendment (the “Fifth Amendment”) to: (i) extend the Lease term for 10 years to
25 December 31, 2032, with an option to extend the term for an additional five years, to

1 December 31, 2037; (ii) relocate the City Attorney’s Office from space on the tenth floor to the
2 fourth floor of the Building at no cost to the City, and increase the total square footage leased
3 by the City by approximately 5,735 square feet; (iii) make tenant improvements to the fourth
4 floor premises at no cost to the City; (iv) reduce the annual base rent payable under the Lease
5 in 2023 to \$66 per square foot and set a new base year of 2023, such that the operating
6 expenses and real property taxes are included in the base rent for calendar year 2023; (v)
7 increase the base rent by 3% each year, starting in January 2024; (vi) provide the City with a
8 right of first opportunity to purchase the office portion of the Building if Landlord decides to sell
9 the office portion of the Building; and (vii) make certain other amendments to the Lease; and

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

12 WHEREAS, The base rent for 2023 totals \$4,959,042 (or \$413,253.50 per month),
13 but the City will receive four months of free rent (the “rent abatement”) upon the relocation
14 from the tenth floor to the fourth floor of the Building; and

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

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

22 WHEREAS, Starting in 2024, City will pay its pro-rata share of increases in the
23 Building’s operating expenses and property taxes over the new base year of 2023; and
24
25

1 WHEREAS, The City’s exercise of the extension option or the right of first opportunity
2 to purchase the Building are subject to the approval of the Board of Supervisors, in its sole
3 discretion; 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 Fifth Amendment and authorizes
6 the Director of Real Estate and the City Attorney to take all actions necessary to enter into
7 and perform the City’s obligations under the Fifth Amendment; and, be it

8 FURTHER RESOLVED, That the City shall continue to use a portion of the premises
9 for childcare services by a licensed day care provider for \$1 per year (the “Day Care
10 License”), providing an important service that lessens the burden of government and is
11 consistent with the requirements of Chapter 29B of the Administrative Code; and, be it

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

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

21
22
23
24
25

\$2,479,5214 Available
(First 6 months of 2023)
Index No. _____

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

n:\spec\as2022\9690013\01619593.doc