

File No. 120038

Committee Item No. 1
Board Item No. 14

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: February 8, 2012

Board of Supervisors Meeting

Date Feb. 14, 2012

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget & Legislative Analyst Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ethics Form 126 |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | *Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |

OTHER

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Completed by: Victor Young

Date: February 3, 2012

Completed by: Victor Young

Date: 2-8-12

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Real Property Lease - Sheriff's Department - 1740 Folsom Street]

2
3 **Resolution authorizing the exercise of a five year option to extend the lease of**
4 **approximately 18,862 square feet of space at 1740 Folsom Street for the Sheriff's**
5 **Department with Mark Nelson Development and New California Land Company.**

6
7 WHEREAS, The City and County of San Francisco, tenant, and Mark Nelson
8 Development, LLC & New California Land Company a California general partnership,
9 collectively Landlord, executed a lease dated June 26, 2002, authorized by Resolution 356-02
10 for Premises consisting of 18,862 sq. ft. in the building commonly known as 1740 Folsom
11 Street; and

12 WHEREAS, Fourteen Street Partnership, LLC is successor in interest to Mark Nelson
13 Development, LLC & New California Land Company a California general partnership, as
14 Landlord; and

15 WHEREAS, Such Lease expires on June 30, 2012 and contains an option to extend
16 the terms for another five years on the same terms and conditions except that the Base
17 Monthly Rental is to be adjusted to 95% of the market rental value; and

18 WHEREAS, Pursuant to the terms of such option, the Real Estate Division and the
19 Landlord have negotiated such 95% of fair market rental, considering all factors; and

20 WHEREAS, Such terms for the option are subject to enactment of a resolution by the
21 Board of Supervisors and the Mayor, in their respective sole and absolute direction, approving
22 and authorizing such exercise; now, therefore, be it

23 RESOLVED, That in accordance with the recommendation of the Sheriff and the
24 Director of Property, the Director of Property is hereby authorized to take all actions on behalf
25 of the City and County of San Francisco, as tenant, to extend the Lease (copy of original

1 lease on file with the Clerk of the Board) with Mark Nelson Development, LLC & New
2 California Land Company a California general partnership., collectively Landlord, ("Landlord"),
3 for the building commonly known as 1740 Folsom Street, San Francisco, California, for the
4 area of approximately 18,862 sq. ft. (the "Premises") on the terms and conditions set forth
5 herein; and, be it

6 FURTHER RESOLVED, That the Lease extension shall be for a term of 5 years
7 through June 30 2017 at the base rent as follows:

8	July.1, 2012- June. 30, 2013	(Yr 1)	\$39,578.76	(Approx. \$25.18 PSF)
9	July.1, 2013- June. 30, 2014	(Yr 2)	\$41,150.60	(Approx. \$26.18 PSF)
10	July.1, 2014- June. 30, 2015	(Yr 3)	\$42,722.43	(Approx. \$27.18 PSF)
11	July.1, 2015- June. 30, 2016	(Yr 4)	\$44,294.26	(Approx. \$28.18 PSF)
12	July.1, 2016- June. 30, 2017	(Yr 5)	\$45,866.10	(Approx. \$29.18 PSF)

13 The City shall continue to pay for utilities; and, be it

14 FURTHER RESOLVED, That the Lease shall continue to include the lease clause,
15 indemnifying, holding harmless, and defending Landlord and its agents from and against any
16 and all claims, costs and expenses, including without limitation, reasonable attorneys' fees,
17 incurred as a result of any default by the City in the performance of any of its material
18 obligations under the Lease, or any negligent acts or omissions of the City or its agents, in,
19 on, or about the Premises or the property on which the Premises are located, excluding those
20 claims, costs and expenses incurred as a result of the negligence or willful misconduct of the
21 Landlord or its agents; and, be it

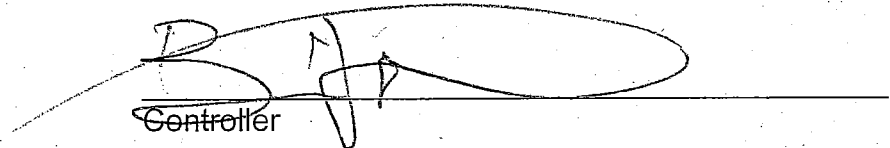
22 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
23 with respect to such Lease are hereby approved, confirmed and ratified; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
25 Property to enter into any amendments or modifications to the Lease (including, without

1 limitation, the exhibits) that the Director of Property determines, in consultation with the City
2 Attorney, are in the best interest of the City, do not increase the rent or otherwise materially
3 increase the obligations or liabilities of the City, are necessary or advisable to effectuate the
4 purposes of the Lease renewal or this resolution, and are in compliance with all applicable
5 laws, including the City Charter; and, be it

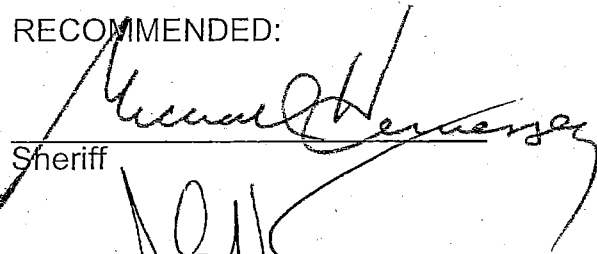
6 FURTHER RESOLVED, That the City shall occupy the entire Premises for the full term
7 of the Lease unless funds for the Sheriff Department's rental payments are not appropriated in
8 any subsequent fiscal year at which time the City may terminate the Lease with advance
9 notice to Landlord. Said Lease shall be subject to certification as to funds by the Controller,
10 pursuant to Section 3.105 of the City Charter.

11
12 \$474,945.12 Available
Index code 062610 subobject 03011

13
14 
15 Controller

16 Subject to the enactment of the Annual Appropriation
Ordinance for Fiscal Year 2012/2013.

17 RECOMMENDED:

18 
19 Sheriff

20 
21 Acting Director
22 Real Estate Division

Item 1
File 12-0038

Department:
San Francisco Sheriff's Department (SFSD);
Real Estate Division (RED);

EXECUTIVE SUMMARY

Legislative Objective

- The proposed resolution would authorize the first of two five-year options to extend the lease of 18,862 square feet of space at 1740 Folsom Street between the City, on behalf the Sheriff's Department, as lessee, and Mark Nelson Development & New California Land Company, as lessor, from July 1, 2012 through June 30, 2017.

Key Points

- On May 28, 2002, the Board of Supervisors approved a ten-year lease from July 1, 2002 through June 30, 2012, with two five-year options, between the Sheriff's Department, as lessee, and Mark Nelson Development & New California Land Company (Mark Nelson), as lessor, at 1740 Folsom Street for approximately 18,862 square feet of space for use as (a) the Sheriff's Department's State-mandated Operation Center for use in an emergency, (b) a consolidated training facility to provide State-mandated annual training to members of the Sheriff's Department, (c) office space for the Sheriff's Department's Training Unit, Background Unit, and Field Support Services Unit, and (d) the site for the Sheriff's Department's Survivor Restoration Program (SRP), which provides services to victims of domestic violence and other random acts of violence.
- Rent paid by the Sheriff's Department to Mark Nelson during the first five years of the existing ten-year lease was \$20.00 per square foot per year, or \$377,240 per year. For each of the last five years, from July 1, 2007 through June 30, 2012, the rent has been \$23.00 per square foot per year, or \$433,826 per year.

Fiscal Impacts

- Under the proposed five-year option, rent would be set at 95 percent of the market rate, determined by the Real Estate Division to be \$25.18 per square foot per year, or \$474,945 for the first year, an increase of \$41,119 or 9.5 percent, from the current annual rent of \$433,826.
- Under the proposed lease, rent would increase by \$1 per square foot per year beginning in the second year of the five-year option, such that in FY 2013-14, the rent would be \$26.18 per square foot per year, or \$493,807. The total cost to the Sheriff's Department of the five-year lease extension would be rent is \$2,563,346.
- The proposed five-year lease option results in a reduction in the effective rent to the Sheriff's Department in the first year, equal to 95 percent of fair market value which is less than the City would have to pay for comparable space if the Sheriff's Department were to relocate, the City would otherwise incur costs to install an emergency generator if the Sheriff's Department were to relocate, and the City will not pay taxes or insurance, which are normally passed through from the lessor to the lessee.

Policy Issue

- During the original ten-year lease and proposed five year lease extension, the City will pay the lessor approximately \$6,618,676 of General Fund revenues to lease the subject facility for the Sheriff's Department. While acknowledging that the original lease contained two options to extend the subject lease for additional five year terms, the Budget and Legislative Analyst raises the question of at what point is it worth purchasing City property for ongoing City uses rather than continuing to enter into increasingly costly annual leases. Mr. Dunn advises that the proposed lease is more cost effective than purchasing property for the Sheriff's Department.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

In accordance with Sections 23.26 and 23.27 of the City's Administrative Code, all leases of \$5,000 or more per month that extend for more than one year in which the City is the lessee are subject to Board of Supervisors approval by resolution.

Background

On May 28, 2002, the Board of Supervisors approved a ten-year lease (Resolution 356-02) from July 1, 2002 through June 30, 2012, between the Sheriff's Department, as lessee, and Mark Nelson Development & New California Land Company (Mark Nelson), as lessor, at 1740 Folsom Street (also known as 120 14th Street) for approximately 18,862 square feet of space for use as (a) the Sheriff's Department's State-mandated Operation Center for use in an emergency, (b) a consolidated training facility to provide State-mandated annual training to members of the Sheriff's Department, (c) office space for the Sheriff's Department's Training Unit, Background Unit, and Field Support Services Unit, and (d) the site for the Sheriff's Department's Survivor Restoration Program (SRP), which provides services to victims of domestic violence and other random acts of violence. According to Ms. Maureen Gannon, Chief Financial Officer for the Sheriff's Department, the facility at 1740 Folsom Street is essential to the Sheriff's Department based on its size, central location, and the range of services it provides. Ms. Gannon estimated that the 1740 Folsom Street facility is used for approximately 160 training courses and 220 meetings per year.

Rent paid by the Sheriff's Department to Mark Nelson under the existing ten-year lease between the Sheriff's Department and Mark Nelson, was \$31,436.67 per month (approximately \$1.67 per square foot per month), totaling \$377,240 (\$20.00 per square foot per year) for each of the first five years of the existing lease. According to Mr. Charlie Dunn, Senior Real Property Officer, Real Estate Division, the rent was determined to be market rate at that time based on comparable office space, including size and location.

Under the existing lease, there was a one-time increase in the rental rate on July 1, 2007 based on the percentage increase in the Consumer Price Index (CPI). The lease terms stipulated that this increase was to be not less than 15 percent and not more than 30 percent. For each of the last five years of the existing ten-year lease, from July 1, 2007 through June 30, 2012, the rental rate was \$36,152.17 per month (approximately \$1.92 per square foot per month), totaling \$433,826 per year (\$23 per square foot per year).

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Director of Real Estate to exercise the first of two five-year options under the existing lease previously approved by the Board of Supervisors, between the Sheriff's Department, as lessee, and Mark Nelson, as lessor, to extend the lease term for an additional five years from July 1, 2012 through June 30, 2017.

FISCAL IMPACTS

Under the existing lease, as previously approved by the Board of Supervisors, the rental rate would be set at 95 percent of market rate for the initial year of the proposed five-year lease extension period, as, determined by the Real Estate Division to be \$2.10 per square foot per month or \$25.18 per square foot per year based on comparable office space, including size and location. As shown in the Table below, the annual rent under the proposed lease option would begin at \$25.18 per square foot per year, or \$474,945 for the first year in FY 2012-13. This represents an increase of \$41,119 (approximately \$2.18 per square foot per year), or 9.5 percent, from the current FY 2011-12 rent of approximately \$23.00 per square foot per year, or \$433,826.

Under the proposed five-year lease option, the rent payable from the Sheriff's Department to Mark Nelson would increase by \$1 per square foot per year.¹ As shown in the Table below, the \$1 per square foot per year rent increase results in annual percentage rent increases ranging from 4.0 percent in Year 2, or FY 2012-13, to 3.5 percent in Year 5, or FY 2015-16. According to Mr. Dunn, the Real Estate Division commonly uses one of two methods to negotiate rent adjustments in leases in which the City is the lessee: (a) CPI, or (b) "market escalations" of \$1 per square foot per year, as under the proposed five-year lease option. Mr. Dunn stated that, in addition to the proposed five-year lease option, the City has previously agreed to annual rent increases of \$1 per square foot in leases at 208 Utah Street, 1550 Bryant Street, and 1390 Market Street.

Based on the initial year's rent set at 95 percent of market rate, and then increasing by \$1 per square foot per year, the total cost of the rent over the proposed five-year lease term would be \$2,563,346, as shown in the Table below.

Table: Annual and Total Cost of the Proposed Five-Year Lease Option

	Monthly Rent	Cost per Square Foot Per Month	Yearly Rent	Cost Per Square Foot Per Year	Percent Increase
Year 1	\$39,579	\$2.10	\$474,945	\$25.18	9.5%
Year 2	\$41,151	\$2.18	\$493,807	\$26.18	4.0%
Year 3	\$42,722	\$2.27	\$512,669	\$27.18	3.8%
Year 4	\$44,294	\$2.35	\$531,531	\$28.18	3.7%
Year 5	\$45,866	\$2.43	\$550,393	\$29.18	3.5%
Total Cost over the Five Year Extension			\$2,563,346		
Utilities (\$2,834 per month)			170,040		
Total Cost Including Utilities			\$2,733,386		

Under the proposed five-year lease extension, the lessor is responsible for all other janitorial, maintenance, and operating costs.

In accordance with the terms of the existing lease, all other terms of the lease would remain unchanged, such that the Sheriff's Department would continue to be responsible for the cost of utilities. As shown in the Table above, utilities are estimated at \$2,834 per month or approximately \$34,008 annually. Over the five-year term of the proposed lease, utilities are estimated to cost the Sheriff approximately \$170,040, resulting in a total cost of \$2,733,386 for the proposed lease extension, as shown in the Table above. This total cost, including utilities,

¹ The existing lease did not specify a method of adjusting the rent year to year to reflect CPI or other adjustments.

would be paid from the City's General Fund, which would need to be appropriated for the Sheriff's Department in the annual budget.

According to Mr. Dunn, the proposed five-year lease option results in a reduction in the effective rent to the Sheriff's Department in the first year, equal to 95 percent of fair market value, which is less than the City would have to pay for comparable space if the Sheriff's Department were to relocate. In addition, Mr. Dunn stated that, under the existing lease and the proposed five-year option, the City does not pay taxes and insurance, which are normally passed through from the lessor to the lessee. If the Sheriff's Department were to relocate, Mr. Dunn notes that the Sheriff's Department would likely have to pay taxes and insurance on a new location as well as additional costs to install an emergency generator at the new location.

POLICY ISSUES

As discussed above, the current annual cost of the proposed lease is \$433,826 of General Fund expenses. As shown in the Table above, under the proposed five year lease extension, the City's annual costs would increase to \$550,393 by FY 2015-16. During the original ten-year lease and proposed five year lease extension, the City will pay the lessor approximately \$6,618,676² of General Fund revenues to lease the subject facility for the Sheriff's Department.

While acknowledging that the original lease contained two options to extend the subject lease for additional five year terms, the Budget and Legislative Analyst raises the question of at what point is it worth purchasing City property for ongoing City uses rather than continuing to enter into increasingly costly annual leases.

According to Mr. Dunn, given the cost of issuing Certificates of Participation (COPs), the likely source to fund the purchase of a small to medium-sized building, coupled with the fact that this lease includes the lessor's costs for insurance, taxes, janitorial and other operating expenses, at this time, the proposed lease is more cost effective than purchasing property for the Sheriff's Department.

RECOMMENDATION

Approve the proposed resolution.

² Based on \$377,240 per year for the first five years (\$1,886,200), plus \$433,826 per year for the second five years (\$2,169,130), plus \$2,563,346 for the proposed five year lease term, shown in the Table above.

**Complete copy of the Document
Located in File No. 120038

LEASE

between

MARK NELSON DEVELOPMENT, LLC AND
NEW CALIFORNIA LAND COMPANY
as Landlord

and

CITY AND COUNTY OF SAN FRANCISCO,
as Tenant

For the lease of

1740 FOLSOM STREET
San Francisco, California

June 26, 2002

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Fourteen Street Partnership	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
Mark Nelson Development LLC, Mark Nelson Managing General Partner	
New California Land Company, Darin Richards-Brown, General Partner Carolyn Del Curto Infante, General Partner	
Contractor address: 2214 Greenwich Street, San Francisco, CA 94123	
Date that contract was approved: <i>(By the SF Board of Supervisors)</i>	Amount of contract: \$2,563,345.80 over 5 years
Describe the nature of the contract that was approved:	
Comments: 5 year lease renewal at 1740 Folsom Street	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed