

1 [Lease Financing For Library Projects.]

2

3 **Ordinance approving the issuance and sale of lease revenue bonds to finance various**

4 **projects under the Branch Library Improvement Program, as further described herein;**

5 **approving the form of a Facilities Lease by and between the City and County of San**

6 **Francisco Finance Corporation (the “Corporation”) and the City and County of San**

7 **Francisco (the “City”) relating to certain real property described herein; approving the**

8 **form of a Master Lease by and between the Corporation and the City; approving the**

9 **form of a Master Trust Agreement by and between the Corporation and a trustee**

10 **(including certain indemnities contained therein); authorizing the selection of a trustee;**

11 **approving the form of an Assignment Agreement by and between the Corporation and**

12 **a trustee; approving the form of an Official Notice of Sale and a Notice of Intention to**

13 **Sell the lease revenue bonds; directing the publication of the Notice of Intention to Sell**

14 **the lease revenue bonds; approving the form of a Purchase Contract and authorizing**

15 **the appointment of one or more underwriters for the lease revenue bonds; approving**

16 **the form of an Official Statement in preliminary and final form and directing the**

17 **Controller to return to the Board at a later date with a revised official statement;**

18 **approving the form of a Continuing Disclosure Certificate; authorizing the payment of**

19 **cost of issuance; authorizing the reimbursement of certain expenditures; granting**

20 **general authority to City officials to take certain actions in connection with the lease**

21 **revenue bonds; approving modifications to documents; adopting findings under the**

22 **California Environmental Quality Act ("CEQA") and findings pursuant to City Planning**

23 **Code Section 101.1 and City Administrative Code Section 2A.53; and ratifying previous**

24 **actions taken in connection therewith.**

25

1 Be it ordained by the People of the City and County of San Francisco:

2 Section 1. Findings. The Board of Supervisors of the City and County of San
3 Francisco (the “Board”) hereby finds and declares as follows:

4 A. On November 6, 2007, the voters of the City and County of San Francisco (the
5 “City”) approved Proposition D, which extended the Library Preservation Fund (the “Fund”), as
6 codified in Section 16.109 of the City Charter, and authorized the Board to issue revenue
7 bonds or other evidences of indebtedness, or to incur lease financing or other obligations,
8 payable from any available funds pledged or appropriated by the Board for such purpose, the
9 proceeds of which are to be used for the purposes set forth in Section 16.109(d) of the City
10 Charter; and,

11 B. By resolution adopted on October 2, 2008, the San Francisco Public Library
12 Commission (the “Library Commission”) has determined to utilize lease revenue bonds to
13 finance a portion of certain projects under the Branch Library Improvement Program (the
14 “Project”) and, pursuant to said Section 16.109(d), has formally requested the Mayor of the
15 City to recommend and this Board to authorize, the issuance and sale of lease revenue bonds
16 for such purposes; and,

17 C. In order to finance the costs of the Project, the Board now desires to authorize
18 the issuance and sale of lease revenue bonds (the “Bonds”) by the City and County of San
19 Francisco Finance Corporation (the “Corporation”) pursuant to Section 16.109 of the Charter
20 of the City; and,

21 D. The Corporation, a California nonprofit public benefit corporation, has been
22 formed for the purpose, among others, of facilitating lease financings for the City; and,

23 E. Pursuant to a Facilities Lease between the City and the Corporation (the
24 “Facilities Lease”), the City shall lease certain City-owned property (as further described in
25

1 Section 3 below, the “Facilities”) to the Corporation, and the Corporation shall make an
2 advance rental payment to the City from the proceeds of the Bonds; and,

3 F. Pursuant to a Master Trust Agreement between the Corporation and the Trustee
4 (the “Trust Agreement”), the Corporation shall issue the Bonds and use a portion of the
5 proceeds thereof to make the advance rental payment to the City under the Facilities Lease,
6 which the City will in turn use to finance the Project; and,

7 G. Pursuant to a Master Lease between the Corporation and the City (the “Lease”),
8 Corporation shall lease back the Facilities to the City, and the City shall make certain periodic
9 rental payments to the Corporation; and,

10 H. Pursuant to an Assignment Agreement (the “Assignment Agreement”), between
11 the Corporation and a trustee to be selected (the “Trustee”), the Corporation shall assign to
12 the Trustee its right to receive such periodic rental payments in order to provide funds to
13 repay the Bonds; and,

14 I. In connection with the sale of the Bonds and the financing of the Project, the
15 City will enter into a Continuing Disclosure Certificate (the “Continuing Disclosure Certificate”)
16 and certain other related agreements; and,

17 J. Depending on market conditions and other circumstances then existing, the sale
18 of the Bonds will be conducted either by negotiated sale pursuant to a Purchase Contract by
19 and among the Corporation, the City and one or more underwriters (the “Purchase Contract”),
20 or by competitive sale in accordance with the terms of an Official Notice of Sale (the “Official
21 Notice of Sale”), in which case the competitive sale will be publicized by means of a Notice of
22 Intention to Sell Bonds (the “Notice of Intention”); and,

23 K. The City reasonably expects to reimburse certain expenditures incurred prior to
24 the issuance and sale of the Bonds with proceeds of such Bonds; and,

25

1 L. The specific projects that are expected to be financed with the proceeds of the
2 Bonds are as follows:

- 3 1. Anza Branch Library (the "Anza Project")
- 4 2. Bayview/ Anna E. Waden Branch Library (the "Bayview Project")
- 5 3. Golden Gate Valley Branch Library (the "Golden Gate Project")
- 6 4. Merced Branch Library (the "Merced Project")
- 7 5. North Beach Branch Library (the "North Beach Project")
- 8 6. Ortega Branch Library (the "Ortega Project").

9 Section 2. Approval of the Bonds. The Board hereby approves the issuance and
10 sale of the Bonds by the Corporation in accordance with the Trust Agreement (as defined
11 herein). The Bonds shall be comprised of, and designated as, the "City and County of San
12 Francisco Finance Corporation Lease Revenue Bonds, Series 2009A (Branch Library
13 Improvement Program)" or such other designation as determined by the Director of Public
14 Finance of the City or her designee (together with the Director of Public Finance of the City,
15 the "Director of Public Finance"). The Director of Public Finance is hereby authorized to
16 approve the sale date, the manner of sale, the maturity dates, the redemption provisions and
17 all other terms of the Bonds, subject to the following limitations: the Bonds shall be in an
18 aggregate principal amount not to exceed \$36,000,000 and shall bear interest at a rate not to
19 exceed twelve percent (12%) per annum. To the extent deemed necessary or desirable by
20 the Director of Public Finance, this Board authorizes the procurement of credit enhancement
21 for the Bonds, including, but not limited to, municipal bond insurance and/or a debt service
22 reserve fund surety bond or insurance policy. Notwithstanding Section 16 hereof, the
23 documents authorized herein may be modified or amended to permit the procurement of
24 credit enhancement for the Bonds, to the extent deemed necessary by the Director of Public
25 Finance, upon consultation with the City Attorney of the City (the "City Attorney").

1 Section 3. Asset Transfer; Description of Property. The execution of the Bonds and
2 lease financing of the Project hereby approved may involve the lease and leaseback by the
3 City of all or any portion of the Main Library, 100 Larkin Street, San Francisco, California, and
4 any other real property of the City to be used for library purposes.

5 Section 4. Approval of the Form of Facilities Lease. The form of the Facilities
6 Lease, as presented to this Board, a copy of which is on file with the Clerk of the Board, is
7 hereby approved. The Mayor of the City, or his designee (together with the Mayor of the City,
8 the “Mayor”), is hereby authorized to execute the Facilities Lease, and the Clerk of the Board
9 is hereby authorized to attest to such execution of the Facilities Lease, with such changes,
10 additions, modifications or deletions as the Mayor may make or approve in accordance with
11 Section 16 hereof.

12 Section 5. Approval of the Form of Master Lease. The form of the Lease, as
13 presented to this Board, a copy of which is on file with the Clerk of the Board, is hereby
14 approved. The Mayor is hereby authorized to execute the Lease, and the Clerk of the Board
15 is hereby authorized to attest to such execution of the Lease, with such changes, additions,
16 modifications or deletions as the Mayor may make or approve in accordance with Section 16
17 hereof, provided however, that the maximum base rental in connection with the Bonds
18 scheduled to be paid under the Lease in any fiscal year shall not exceed \$4,600,000 and the
19 term of the Lease shall not be longer than 36 years, except as such date may be extended by
20 future ordinance.

21 Section 6. Approval of the Form of Master Trust Agreement and Authorization of
22 Selection of the Trustee. The form of the Trust Agreement, as presented to this Board, a copy
23 of which is on file with the Clerk of the Board, is hereby approved. The Director of Public
24 Finance is hereby authorized to select the Trustee in accordance with City policies and
25 procedures, including, but not limited to, the City’s policy to provide locally disadvantaged

1 minority business enterprises and women enterprises an equal opportunity to participate in
2 the performance of all City contracts.

3 Section 7. Approval of the form of Assignment Agreement. The form of the
4 Assignment Agreement, as presented to this Board, a copy of which is on file with the Clerk of
5 the Board, is hereby approved.

6 Section 8. Approval of the Form of Official Notice of Sale; Authorization for
7 Competitive Sale; Authorization to Award Bonds. The form of the Official Notice of Sale, as
8 presented to this Board, a copy of which is on file with the Clerk of the Board, is hereby
9 approved. The Director of Public Finance is hereby authorized to approve the distribution of
10 the Official Notice of Sale, with such changes, additions, modifications or deletions as the
11 Director of Public Finance may approve upon consultation with the City Attorney; such
12 approval to be conclusively evidenced by the distribution of the Official Notice of Sale to
13 potential purchasers of the Bonds. The Director of Public Finance is hereby authorized to sell
14 the Bonds by competitive sale if the Director of Public Finance determines that such manner
15 of sale is in the best interest of the City, such determination to be conclusively evidenced by
16 the receipt of bids and the award of the Bonds in accordance with the Official Notice of Sale.
17 If the Director of Public Finance determines to sell the Bonds by competitive sale, the Director
18 of Public Finance, on behalf of the Controller, is hereby authorized and directed to receive
19 bids for the purchase of the Bonds, and the President of the Corporation or the Chief Financial
20 Officer of the Corporation is each hereby authorized to award the Bonds in accordance with
21 the procedures described in the Official Notice of Sale.

22 Section 9. Approval of the Form of Notice of Intention to Sell the Bonds. The form of
23 the Notice of Intention, as presented to this Board, a copy of which is on file with the Clerk of
24 the Board, is hereby approved. The Director of Public Finance is hereby authorized to
25 approve the publication of the Notice of Intention to Sell, with such changes, additions,

1 modifications or deletions as the Director of Public Finance may approve upon consultation
2 with the City Attorney; such approval to be conclusively evidenced by the publication of the
3 Notice of Intention to Sell.

4 Section 10. Official Statement in Preliminary and Final Form. There has been
5 presented to this Board a form of an official statement relating to the Bonds (the “Official
6 Statement”), a copy of which is on file in preliminary form with the Clerk of the Board, is
7 hereby approved. The Controller (as such term is defined below) is hereby directed to return
8 to this Board at a later date with a revised form of Official Statement, modified to reflect
9 material changes to the City's finances. The authorization to sell Bonds as herein provided is
10 subject in all respects to final approval by the Board of the form of the revised Official
11 Statement.

12 Section 11. Authorization for Negotiated Sale; Authorization to Select Underwriters;
13 Approval of the Form of Purchase Contract. The Director of Public Finance is hereby
14 authorized to sell the Bonds by negotiated sale pursuant to a purchase contract, if the Director
15 of Public Finance determines that such manner of sale is in the best interest of the City, such
16 determination to be conclusively evidenced by the execution and delivery of a purchase
17 contract for the Bonds. The Director of Public Finance is hereby authorized and directed to
18 appoint one or more investment banking firms to act as underwriters of the Bonds in
19 accordance with City policies and procedures, including, but not limited to, the City’s policy to
20 provide locally disadvantaged minority business enterprises and women enterprises an equal
21 opportunity to participate in the performance of all City contracts. The form of the Purchase
22 Contract, among the City, the Corporation and one or more underwriters selected by the
23 Director of Public Finance, as presented to this Board, a copy of which is on file with the Clerk
24 of the Board, is hereby approved. If the Director of Public Finance determines to sell the
25 Bonds by negotiated sale, the Director of Public Finance is hereby authorized to execute the

1 Purchase Contract, with such changes, additions, modifications or deletions as the Director of
2 Public Finance may approve upon consultation with the City Attorney, such approval to be
3 conclusively evidenced by the execution and delivery of the Purchase Contract.

4 Section 12. Approval of the Form of Continuing Disclosure Certificate. The form of
5 the Continuing Disclosure Certificate of the City, as presented to this Board, a copy of which is
6 on file with the Clerk of the Board, is hereby approved. The Controller is hereby authorized to
7 execute the Continuing Disclosure Certificate, with such changes, additions, modifications or
8 deletions as the Controller may approve upon consultation with the City Attorney; such
9 approval to be conclusively evidenced by the execution and delivery of the Continuing
10 Disclosure Certificate.

11 Section 13. Payment of Cost of Issuance. The Board hereby authorizes the
12 expenditure of a portion of the proceeds of the Bonds for the payment of certain costs of
13 issuance incurred in connection with the issuance and sale of the Bonds.

14 Section 14. Approval of Reimbursement. Pursuant to Treasury Regulation Section
15 1.150-2, the City hereby declares its intent to reimburse from proceeds of the sale of the
16 Bonds capital expenditures of the Project paid within sixty (60) days prior to the effective date
17 of this Ordinance, costs of issuance of the Bonds and other expenditures permitted to be
18 reimbursed pursuant to Treasury Regulation Section 1.150-2. Any reimbursement allocation
19 of proceeds of the Bonds to be made with respect to expenditures incurred prior to the
20 issuance of the Bonds (excluding certain de minimis expenditures and preliminary
21 expenditures in an amount not to exceed twenty percent (20%) of the issue price of the
22 Bonds) will occur not later than eighteen (18) months after the later of (i) the date on which the
23 expenditure is paid, or (ii) the date on which the facilities are placed in service, but in no event
24 more than three (3) years after the expenditure is paid.

1 Section 15. General Authority. The Mayor, the City Attorney, the Controller, the
2 Director of Public Finance, the City Librarian, the Director of Real Estate, the Clerk of the
3 Board and other officers of the City and their duly authorized deputies and agents are hereby
4 authorized and directed, jointly and severally, to take such actions and to execute and deliver
5 such certificates, agreements, requests or other documents, as they may deem necessary or
6 desirable to facilitate the issuance, sale and delivery of the Bonds, to obtain bond insurance or
7 other credit enhancements with respect to the Bonds, to obtain title and other insurance with
8 respect to the Facilities, and otherwise to carry out the provisions of this Ordinance.

9 Section 16. Modifications, Changes and Additions. The Mayor is hereby authorized to
10 approve and make such modifications, changes, additions or deletions to the Facilities Lease
11 or the Lease, upon consultation with the City Attorney, as may be necessary or desirable in
12 the interests of the City, and which changes do not materially increase the obligations of the
13 City under the Facilities Lease or the Lease. The Mayor's approval of such modifications,
14 changes, additions or deletions shall be conclusively evidenced by the execution and delivery
15 by the Mayor and the Clerk of the Board of the Facilities Lease and the Lease.

16 Section 17. Adoption of Findings of Department of City Planning. The Board hereby
17 finds and declares (i) that the following projects are categorically exempt from CEQA as
18 described in the letters dated _____ from the City Planning Department (the "Planning
19 Department"), copies of each of which are on file with the Clerk of the Board of Supervisors or
20 her designee (together with the Clerk of the Board of Supervisors, the "Clerk of the Board"):
21 the Anza Project, the Bayview Project, the Golden Gate Project, the Merced Project, and the
22 Ortega Project; (ii) that the North Beach Project is subject to further required environmental
23 review under CEQA and that the expenditure of Bond proceeds on the North Beach Project
24 will be limited to feasibility planning and environmental review purposes, (iii) that the Project is
25 in conformity with the priority policies of Section 101.1(b) of the City Planning Code and (iv) in

1 accordance with Section 2A.53(f) of the City Administrative Code, that the Bonds, the Ortega
2 Project and the Bayview Project are consistent with the City's General Plan, and hereby
3 adopts the findings of the Planning Department, as set forth in the General Plan Referral
4 Report, dated _____, and incorporates said findings by reference.

5 Section 18. Ratification of Prior Actions. All actions authorized and directed by this
6 Ordinance and heretofore taken are hereby ratified, approved and confirmed by this Board.

7 Section 19. File Documents. All documents referred to as on file with the Clerk of the
8 Board are in File No. _____.

9 Section 20. Immediate Effect. Pursuant to Section 2.105 of the City's Charter, this
10 Ordinance shall take effect immediately following the date of passage.

11

12

13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15

16 By: _____
17 Kenneth David Roux
18 Deputy City Attorney

19

20

21

22

23

24

25