

1 [Transfer of Real Property.]

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3 **Ordinance authorizing the transfer of responsibilities for the court facilities at 575 Polk**
4 **Street and the agreement to make ongoing payments of fixed court facility payments**
5 **equal to \$323,132.00 per year, adjusted by an inflation index, to the State of California**
6 **pursuant to such transfer.**

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

9 Section 1. **Findings.** Under the Trial Court Facilities Act of 2002 (California
10 Government Code Section 70301 *et seq.*) (the "Act"), State of California (the "State") counties
11 and cities must provide necessary and suitable facilities for judicial and court support positions
12 created prior to July 1, 1996; and

13 Under the Act, a California city or county is released from its obligation to continue to
14 provide an existing court facility by executing a transfer agreement with the State that would
15 transfer such existing court facility to the State's Administrative Office of the Courts (the
16 "AOC") and would obligate the transferring city or county to make ongoing, fixed county facility
17 payments (a "CFP") to the State for such transferred court facility, and the Act further releases
18 any city or county from its obligation to provide for any court facilities if it transfers all of its
19 existing court facilities to the AOC pursuant to such transfer agreements; and

20 The Act requires that all such transfer agreements be executed prior to December 31,
21 2009; and

22 The City and County of San Francisco (the "City") leases 8,870 sq. ft. at 575 Polk
23 Street, San Francisco, California (the " Polk Street Court Facility") for use by the Superior
24 Court of San Francisco pursuant to Board of Supervisors Resolution 297-01 and pursuant to a
25 lease for the Polk Street Court Facility dated as of December 3, 1990, as amended by an

1 exercise of option agreement dated as of May 4, 2001 (as amended, the "Polk Street Lease");
2 and,

3 The Act provides for the transfer of the Polk Street Court Facility from the City to the
4 AOC and City's payment of CFPs for such transferred facilities pursuant to appropriate
5 transfer agreements; and

6 The City's Controller's Office and the AOC established the CFP for the Polk Street
7 Court Facility as \$323,132.00 per year (the "Polk Street CFP"). The Polk Street CFP of
8 \$323,132 is the California Department of Finance's current forecast and is subject to
9 adjustment by the California Department of Finance's final inflation index for the month of the
10 transfer date, which will not be available for approximately four months; and

11 The State submitted a transfer agreement, a copy of which is on file with the Clerk of
12 the Board (the "Polk Street Transfer Agreement"), to transfer City's responsibility for the Polk
13 Street Court Facility to the AOC, subject to City's continuing obligation to remain as tenant
14 under the Polk Street Lease for the duration thereof, to provide for City's payment in
15 perpetuity of the Polk Street CFP following such transfer, and to release City from its
16 obligation to otherwise provide for the Polk Street Court Facility; and

17 The City's Planning Department has reported its findings that the proposed transfer of
18 responsibilities for the Polk Street Court Facility pursuant to the Transfer Agreement is
19 consistent with the City's General Plan and the Eight Priority Policies of City Planning Code
20 Section 101.1. A copy of such letter is on the file with the Clerk of the Board of Supervisors in
21 File No. _____ and is incorporated herein by reference; and

22 The State submitted an estoppel certificate, a copy of which is on file with the Clerk of
23 the Board (the "Estoppel Certificate"), pursuant to which City makes certain certifications
24 regarding the Polk Street Lease; and

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1 Section 2. In accordance with the recommendation of the Director of Property, the
2 Director of Property is hereby authorized to take all actions on behalf of the City, as transferor,
3 to execute the Polk Street Transfer Agreement, the Estoppel Certificate, and other related
4 documents with the AOC for the immediate transfer of responsibilities for the Polk Street
5 Court Facility and City's agreement to make ongoing payments of the Polk Street CFP, on the
6 terms and conditions herein and in the Polk Street Transfer Agreement.

7 Section 3. The Polk Street Transfer Agreement (the "Transfer Agreement"), shall
8 include clause(s) in the form approved by the City Attorney, indemnifying and holding
9 harmless the AOC, the Superior Court of California for the County of San Francisco, and
10 Judicial Council of California (collectively, the "State Parties") from, and agreeing to defend
11 the State Parties against any and all claims, costs and expenses, including, without limitation,
12 reasonable attorney's fees, incurred as a result of City's failure to perform its obligations under
13 the Transfer Agreement, the inaccuracy or breach of any City representation or warranty in
14 the Transfer Agreement or the Estoppel Certificate, or the existence of certain environmental
15 conditions, if such conditions existed at the Polk Street Court Facility as of the effective date
16 of the Transfer Agreement, excluding those claims, costs and expenses incurred as a result of
17 the negligence or willful misconduct of the State Parties.

18 Section 4. The Board of Supervisors hereby approves the Transfer Agreement and the
19 Estoppel Certificate, the consummation of the transaction contemplated in the Transfer
20 Agreement and the performance by City of all of its obligations thereunder, and authorizes the
21 Director of Property to execute the Transfer Agreement and the Estoppel Certificate on behalf
22 of the City.

23 Section 5. All actions heretofore taken by the employees and officers of the City with
24 respect to the Transfer Agreement, the Estoppel Certificate, the transfer of the Polk Street
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1 Court Facility and the calculation of the Polk Street CFP pursuant to the Act, are hereby
2 approved, confirmed and ratified.

3 Section 6. The Board of Supervisors authorizes the Director of Property to execute any
4 amendments or modifications to the Transfer Agreement or the Estoppel Certificate (including
5 without limitation, the exhibits) that the Director of Property determines, in consultation with
6 the City Attorney, are in the best interest of the City, do not materially increase the obligations
7 or liabilities of the City, are necessary or advisable to consummate the transactions
8 contemplated in the Transfer Agreement or to otherwise effectuate compliance with Act, or the
9 performance of the purposes of this Ordinance and are in compliance with all applicable laws,
10 including City's Charter.

11 Section 7. The Controller is hereby authorized to adjust Fiscal Year 2008-09
12 departmental appropriations and transfer the necessary funding to implement the transfer of
13 all trial court facilities and approved operations funding during Fiscal Year 2008-09 from the
14 City and County of San Francisco to the Administrative Office of the Courts, State of California
15 as required under Senate Bill (SB) 1732.

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17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

FUNDS AVAILABLE:

19 By: _____
20 Deputy City Attorney

Ben Rosenfield
Controller

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22 _____
23 Amy L. Brown
24 Director of Property

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