

1 [Transfer of Real Property.]

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3 **Ordinance authorizing the transfer of responsibilities and the future transfer of fee**
4 **interest in the court facility located at 400 McAllister Street and the agreement to make**
5 **ongoing payments of fixed court facility payments equal to \$955,022.00 per year,**
6 **adjusted by an inflation index, to the State of California pursuant to such transfer.**

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

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

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

21 The Act requires that all such transfer agreements be executed prior to June 30, 2009;
22 and

23 The City constructed and owns the 6 story plus basement, approximate 185,000 sq. ft.
24 courthouse at 400 McAllister Street, San Francisco, California (the "McAllister Street Court
25 Facility") for use by the Superior Court of San Francisco, and the City issued Certificates of

1 Participation to finance such construction and such Certificates Of Participation are retired in
2 2021; and,

3 The Act provides for the transfer of the McAllister Street Court Facility from the City to
4 the 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 McAllister Street
7 Court Facility as \$955,022 per year (the "McAllister Street CFP"). The McAllister Street CFP
8 of \$955,022 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 "McAllister Street Transfer Agreement"), to transfer City's responsibility for the
13 maintenance and operation of the McAllister Court Facility to the AOC, to provide for City's
14 payment in perpetuity of the McAllister Street CFP following such transfer, to provide for City's
15 transfer of fee title to the McAllister Court Facility to AOC once the Certificates of Participation
16 are paid in full, and to release City from its obligation to otherwise provide for the McAllister
17 Street Court Facility; and

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

23 Section 2. In accordance with the recommendation of the Director of Property, the
24 Director of Property is hereby authorized to take all actions on behalf of the City, as transferor,
25 to execute the McAllister Street Transfer Agreement and other related documents with the

1 AOC for the immediate transfer of responsibilities for the McAllister Street Court Facility and
2 the future fee transfer of the McAllister Street Court Facility and City's agreement to make
3 ongoing payments of the McAllister Street CFP, on the terms and conditions herein and in the
4 McAllister Street Transfer Agreement.

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

16 Section 4. The Board of Supervisors hereby approves the Transfer Agreement, the
17 consummation of the transactions contemplated in the Transfer Agreement and the
18 performance by City of all of its obligations thereunder, and authorizes the Director of Property
19 to execute the Transfer Agreement on behalf of the City.

20 Section 5. All actions heretofore taken by the employees and officers of the City with
21 respect to the Transfer Agreement, the transfer of the McAllister Street Court Facility and the
22 calculation of the McAllister Street CFP pursuant to the Act, are hereby approved, confirmed
23 and ratified.

24 Section 6. The Board of Supervisors authorizes the Director of Property to execute any
25 amendments or modifications to the Transfer Agreement or the Estoppel Certificate (including

1 without limitation, the exhibits) that the Director of Property determines, in consultation with
2 the City Attorney, are in the best interest of the City, do not materially increase the obligations
3 or liabilities of the City, are necessary or advisable to consummate the transactions
4 contemplated in the Transfer Agreement or to otherwise effectuate compliance with Act, or the
5 performance of the purposes of this Ordinance and are in compliance with all applicable laws,
6 including City's Charter.

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

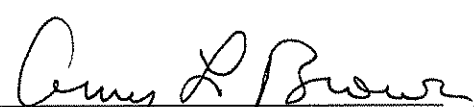
12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

FUNDS AVAILABLE:

15 By:


16 Deputy City Attorney


17 Ben Rosenfield
18 Controller


19 Amy L. Brown
20 Director of Property



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 081198

Date Passed:

Ordinance authorizing the transfer of responsibilities and the future transfer of fee interest in the court facility located at 400 McAllister Street and the agreement to make ongoing payments of fixed court facility payments equal to \$955,022.00 per year, adjusted by an inflation index, to the State of California pursuant to such transfer.

October 21, 2008 Board of Supervisors — PASSED ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

October 28, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 11 - Alioto-Pier, Ammiano, Chu, Daly, Dufty, Elsbernd, Maxwell, McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 081198

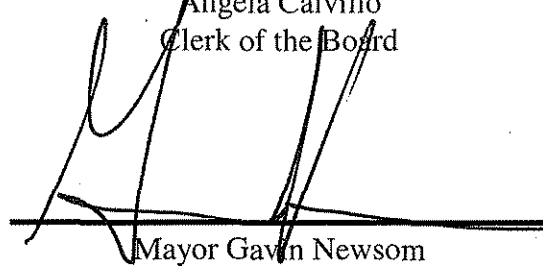
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on **October 28, 2008**
by the Board of Supervisors of the City and
County of San Francisco.

11/7/2008

Date Approved



Angela Calvillo
Clerk of the Board



Mayor Gavin Newsom