

[Refunding Certificates of Participation]

**Ordinance authorizing the execution and delivery of Refunding Certificates of Participation in an aggregate principal amount not to exceed \$155,000,000 to refinance certain certificates of participation that financed various capital improvement projects; approving the form of a Trust Agreement between the City and County of San Francisco and the trustee (including certain indemnities contained therein); authorizing the selection of a trustee (the "Trustee"); approving the form of a Property Lease between the City and the Trustee named therein relating to certain property generally known as the San Bruno Complex and certain other City-owned property; approving the form of a Project Lease between the City and the Trustee (including certain indemnities contained therein); approving the form of an Escrow Agreement between the City and an Escrow Agent named therein (including certain indemnities contained therein); approving the form of an Official Notice of Sale and a Notice of Intention to Sell the Refunding Certificates of Participation, if sold by competitive sale; authorizing certain actions relating to the Refunding Certificates of Participation, if sold by negotiated sale and approving the form of a Purchase Contract between the City and an Underwriter named therein; approving the form of an official statement in preliminary and final form; approving the form of a Continuing Disclosure Certificate; granting general authority to City officials to take necessary actions in connection with the authorization, sale, execution and delivery of the Refunding Certificates of Participation; approving modifications to documents; and ratifying previous actions taken in connection therewith.**

NOTE: Additions are *single-underline italics Times New Roman*;  
deletions are ~~*strike-through italics Times New Roman*~~.  
Board amendment additions are double-underlined;

Board amendment deletions are ~~striketrough~~ normal.

1  
2 WHEREAS, The Board of Supervisors of the City and County of San Francisco (the  
3 "Board of Supervisors" or the "Board") desires to provide for the refinancing of certain  
4 certificates of participation (the "Refunded Certificates") that financed various capital  
5 improvement projects (collectively, the "Project"), with proceeds from the sale of refunding  
6 certificates of participation, (the "Certificates"); and,

7 WHEREAS, Chapter 43, Article VIII, Section 43.8.1 of the San Francisco  
8 Administrative Code (the "Administrative Code") provides that the policy of the City and  
9 County of San Francisco (the "City") is to permit the refunding of outstanding lease obligations  
10 of the City whenever such refunding shall result in net debt service savings to the City  
11 pursuant to the procedure set forth in such Article as well as by any other method permitted  
12 by law or other ordinance of the Board; and

13 WHEREAS, The Board desires to provide an alternative to the policy of the City  
14 set forth in the Administrative Code; and

15 WHEREAS, In connection with the Refunded Certificates, the policy of the City  
16 (the "Refunding Policy") shall be to achieve one or more of the following purposes: debt  
17 service savings in certain fiscal years, release of certain City properties securing the  
18 Refunded Certificates, economic benefits and/or greater flexibility with respect to certain  
19 financial covenants, all as determined and deemed necessary and/or appropriate by the  
20 Director of Public Finance of the City; and

21 WHEREAS, In connection with the Certificates, the City shall enter into a property  
22 lease, a project lease, a trust agreement, an escrow agreement, and certain other related  
23 documents; and,

24 WHEREAS, The Certificates will be payable from rental payments paid by the City for  
25 the use and occupancy of certain land and facilities subject to the project lease; and

1           WHEREAS, This Board has been presented with the form of certain documents  
2 referred to herein relating to the Certificates, and the Board has examined and is approving  
3 each document and desires to authorize and direct the execution of such documents and the  
4 consummation of such refinancing; and,

5           WHEREAS, The adoption of this Ordinance shall constitute authorization of the  
6 Certificates as obligations within the meaning of Section 864 of the California Code of Civil  
7 Procedure and Section 53511 of the Government Code and any Validation Act that is effective  
8 after this Ordinance is adopted; and

9           WHEREAS, The Certificates may be sold by competitive sale pursuant to an official  
10 notice of sale and a notice of intention to sell or, in accordance with certain procedures, by  
11 negotiated sale pursuant to a purchase contract; and,

12           Be it ordained by the People of the City and County of San Francisco, as follows:

13           Section 1. Recitals and Adoption of the Refunding Policy. All of the recitals herein are  
14 true and correct and the Board hereby adopts the Refunding Policy in connection with the  
15 execution and delivery of the Certificates.

16           Section 2. Conditions Precedent. All conditions, things and acts required by law to  
17 exist, to happen and to be performed precedent to the execution and delivery of the  
18 Certificates exist, have happened and have been performed in due time, form and manner in  
19 accordance with applicable law, and the City is now authorized pursuant to its Charter and  
20 applicable law to incur indebtedness in the manner and form provided in this Ordinance.

21           Section 3. File Documents. The documents presented to this Board and on file with the  
22 Clerk of the Board or her designee (the "Clerk") are contained in File No. \_\_\_\_.

23           Section 4. Approval of the Certificates. The Board hereby approves the execution and  
24 delivery of the Certificates, which shall be executed and delivered in accordance with the trust  
25 agreement (the "Trust Agreement"), between the City and the trustee named therein (the

1 “Trustee”), as the same is finally executed and delivered. The proceeds of the Certificates will  
2 be used to (i) refinance the Project; (ii) fund a reserve fund or the costs of a reserve surety  
3 policy, if any, as the Controller of the City or his designee (collectively, the “Controller”) shall  
4 determine; and (iii) pay costs of execution and delivery of the Certificates. The Certificates  
5 shall be designated as "City and County of San Francisco Refunding Certificates of  
6 Participation, Series 2010A" or such other designation as deemed appropriate by the Director  
7 of Public Finance of the City or her designee (collectively, the "Director of Public Finance").  
8 The Trustee shall be authorized to cause the execution and delivery of the Certificates in an  
9 aggregate principal amount not to exceed \$155,000,000, with an interest rate not to exceed  
10 12 percent per annum; provided that the delivery and sale of the Certificates shall comply with  
11 the Refunding Policy, as determined by the Director of Public Finance. The Certificates shall  
12 be subject to prepayment as set forth in the Trust Agreement. To the extent deemed  
13 necessary or desirable by the Director of Public Finance, this Board authorizes the  
14 procurement of credit enhancement for the Certificates, including, but not limited to, municipal  
15 bond insurance or a debt service reserve fund surety policy, if any. Notwithstanding Section  
16 17 hereof, the documents authorized herein may be modified or amended to permit the  
17 procurement of credit enhancement for the Certificates, to the extent deemed necessary or  
18 desirable by the Director of Public Finance, upon consultation with the City Attorney.

19 Section 5. Approval of the Trust Agreement; Authorization of Selection of Trustee. The  
20 form of a trust agreement (the "Trust Agreement") between the City and the Trustee, as  
21 presented to this Board, a copy of which is on file with the Clerk of the Board, is hereby  
22 approved. The Mayor of the City or his designee (collectively, the "Mayor") is hereby  
23 authorized to execute the Trust Agreement, and the Clerk of the Board or her designee  
24 (collectively, the "Clerk of the Board"), is hereby authorized to attest to and affix the seal of the  
25 City on the Trust Agreement, with such changes, additions and modifications as the Mayor

1 may make or approve in accordance with Section 17 hereof. The Director of Public Finance is  
2 hereby authorized to select the Trustee in accordance with City policies and procedures,  
3 including but not limited to, the City's policy to provide locally disadvantaged minority business  
4 enterprises and women enterprises an equal opportunity to participate in the performance of  
5 all City contracts.

6 Section 6. Approval of the Property Lease. The form of a property lease (the "Property  
7 Lease ") between the City and the Trustee, as presented to this Board, a copy of which is on  
8 file with the Clerk of the Board, is hereby approved. The Mayor is hereby authorized to  
9 execute the Property Lease, and the Clerk of the Board, is hereby authorized to attest to and  
10 affix the seal of the City on the Property Lease, with such changes, additions and  
11 modifications as the Mayor may make or approve in accordance with Section 17 hereof.

12 Section 7. Approval of the Project Lease; Approval of Base Rental Payments. The form  
13 of a project lease between the City and the Trustee (the "Project Lease"), providing for the  
14 refinancing of the Project, as presented to this Board, a copy of which is on file with the Clerk  
15 of the Board, is hereby approved. The Mayor is hereby authorized to execute the Project  
16 Lease, and the Clerk of the Board is hereby authorized to attest and to affix the seal of the  
17 City on the Project Lease with such changes, additions and modifications as the Mayor may  
18 make or approve in accordance with Section 17 hereof, provided however, that the maximum  
19 Base Rental (as defined in the Project Lease) scheduled to be paid under the Project Lease  
20 for the use and occupancy of certain land and facilities (the "Leased Property"), in any fiscal  
21 year shall not exceed \$12,500,000 and the term of the Project Lease shall not extend beyond  
22 2040.

23 Section 8. Approval of the Leased Property. The Board hereby approves of the use  
24 and occupancy of all or a portion of the Leased Property by the City. The Board also hereby  
25 approves of the payment by the City of the Base Rental for the use and occupancy of all or a

1 portion of the following Leased Property: (i) property commonly known as the “San Bruno  
2 Complex” located in the County of San Mateo, adjacent to the City of San Bruno,  
3 approximately 15 miles south of San Francisco, (ii) a City office building located at 25 Van  
4 Ness Avenue in the City, (iii) a City owned building located at 2789 25<sup>th</sup> Street at the corner of  
5 25<sup>th</sup> Street and Portrero Avenue in the City and (iv) a City owned building occupied by the  
6 Public Defender’s Office (approximately 24,332 square feet) and the Sheriff’s Department  
7 (approximately 7,668 square feet) located at 555 – 7<sup>th</sup> Street on the east side of 7<sup>th</sup> Street,  
8 between Bryant and Brannan in the City.

9 Section 9. Approval of the Escrow Agreement. The form of an escrow agreement  
10 between the City and the Escrow Agent (the “Escrow Agreement”) as presented to this Board,  
11 a copy of which is on file with the Clerk of the Board, is hereby approved. The Mayor is  
12 hereby authorized to execute the Escrow Agreement, and the Clerk of the Board is hereby  
13 authorized to attest and to affix the seal of the City on the Escrow Agreement with such  
14 changes, additions and modifications as the Mayor may make or approve in accordance with  
15 Section 17 hereof.

16 Section 10. Sale and Award of Certificates by Competitive Sale. In the event the  
17 Director of Public Finance determines to sell the Certificates 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 Certificates, and the Controller is hereby authorized and directed  
20 to award the Certificates to the bidder whose bid represents the lowest true interest cost to the  
21 City, all in accordance with the procedures described in the Official Notice of Sale (as defined  
22 herein).

23 Section 11. Approval of Form of Official Notice of Sale. The form of an official notice of  
24 sale relating to the Certificates (the "Official Notice of Sale"), as presented to this Board, a  
25 copy of which is on file with the Clerk of the Board, is hereby approved. The Director of Public

1 Finance is hereby authorized to approve the distribution of an Official Notice of Sale for the  
2 Certificates, with such changes, additions modifications or deletions as the Director of Public  
3 Finance may approve upon consultation with the City Attorney; such approval to be  
4 conclusively evidenced by the distribution of the Official Notice of Sale to potential purchasers  
5 of the Certificates.

6 Section 12. Approval of Notice of Intention to Sell Relating to the Certificates. The form  
7 of a notice of intention to sell relating to the Certificates (the "Notice of intention to Sell"), 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 publication of  
10 the Notice of Intention to Sell relating to the Certificates, with such changes, additions,  
11 modifications or deletions as the Director of Public Finance may approve upon consultation  
12 with the City Attorney; such approval to be conclusively evidenced by the publication of the  
13 Notice of Intention to Sell relating to the Certificates.

14 Section 13. Sale of Certificates by Negotiated Sale; Approval of Purchase Contract;  
15 Selection of Underwriters. In the event the Director of Public Finance determines to sell the  
16 Certificates by negotiated sale, the Director of Public Finance is hereby authorized to sell the  
17 Certificates by negotiated sale pursuant to one or more purchase contracts (the "Purchase  
18 Contract"), by and between the City and the underwriter named therein. The form of such  
19 Purchase Contract as presented to this Board, a copy of which is on file with the Clerk of the  
20 Board, is hereby approved. The Controller is hereby authorized to execute the Purchase  
21 Contract with such charges, additions and modifications as the Controller may make or  
22 approve in accordance with Section 17 hereof; provided however, that the Underwriters'  
23 discount under any such Purchase Contract shall not exceed 1.00% of the principal amount of  
24 the Certificates. In order to facilitate the sale of the Certificates by negotiated sale, the  
25 Director of Public Finance is hereby authorized and directed to appoint one or more financial

1 institutions to act as underwriter for the Certificates in accordance with City policies and  
2 procedures, including, but not limited to, the City's policy to provide locally disadvantaged  
3 minority business enterprises and women enterprises an equal opportunity to participate in  
4 the performance of all City contracts.

5 Section 14. Approval of the Official Statement in Preliminary and Final Form. The form  
6 of an official statement relating to the Certificates (the "Official Statement"), as presented to  
7 this Board, a copy of which is on file in preliminary form with the Clerk, is hereby approved.  
8 The Director of Public Finance or the Controller is hereby authorized to approve the  
9 preliminary Official Statement in substantially said form, with such changes, additions,  
10 modifications or deletions as either officer may approve upon consultation with the City  
11 Attorney, and to deem the preliminary Official Statement final for purposes of Rule 15c2-12 of  
12 the Securities and Exchange Act of 1934, as amended, to execute a certificate to that effect,  
13 and to cause the preliminary Official Statement to be delivered, in printed or electronic form, to  
14 potential purchasers of the Certificates, such approval to be conclusively evidenced by the  
15 delivery of said deemed-final certificate. The Controller is hereby further authorized and  
16 directed to sign and deliver the Official Statement in final form to purchasers of the  
17 Certificates.

18 Section 15. Approval of the Continuing Disclosure Certificate. The form of a Continuing  
19 Disclosure Certificate of the City, as presented to this Board, a copy of which is on file with the  
20 Clerk of the Board, is hereby approved. The Controller is hereby authorized to execute the  
21 Continuing Disclosure Certificate, with such changes, additions, modifications or deletions as  
22 the Controller may approve upon consultation with the City Attorney; such approval to be  
23 conclusively evidenced by the execution and delivery of the Continuing Disclosure Certificate.

24 Section 16. General Authority. The Mayor, the City Attorney, the Controller, the City  
25 Administrator, the Director of Public Finance, the Clerk of the Board and other officers of the



1 City and their duly authorized deputies and agents are hereby authorized and directed, jointly  
2 and severally, to take such actions and to execute and deliver such certificates, agreements,  
3 requests or other documents as they may deem necessary or desirable to accomplish the  
4 proposed financing through the execution and delivery of the Certificates, to enter into the  
5 Trust Agreement, Property Lease, Escrow Agreement and the Project Lease, to facilitate the  
6 execution and delivery of the Certificates, to obtain bond insurance or other credit  
7 enhancements with respect to the refinancing of the Project, to obtain title insurance, clear  
8 any encumbrances to title, survey property and carry out other title work and otherwise to  
9 carry out the provisions of this Ordinance.

10 Section 17. Modifications, Changes and Additions. The Mayor or the Controller is  
11 hereby authorized to approve and make such modifications, changes or additions to the Trust  
12 Agreement, Property Lease, Escrow Agreement, Purchase Contract or the Project Lease,  
13 upon consultation with the City Attorney, as may be necessary or desirable in the interests of  
14 the City, and which changes do not materially increase the obligations of the City under the  
15 Trust Agreement, Property Lease, Escrow Agreement, Purchase Contract or the Project  
16 Lease. The Mayor's or the Controller's approval of such modifications, changes or additions  
17 shall be conclusively evidenced by the execution and delivery by the Mayor and the Clerk of  
18 the Board of the Trust Agreement, Property Lease, Escrow Agreement and the Project Lease  
19 and by the execution and delivery by the Controller of the Purchase Contract.

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

3  
4 APPROVED AS TO FORM:

5 DENNIS J. HERRERA  
6 City Attorney

7  
8 By: \_\_\_\_\_  
9           KENNETH DAVID ROUX  
          Deputy City Attorney