

1 [Certificates of Participation - War Memorial Veterans Building Seismic Upgrade and
2 Improvements - Not to Exceed \$170,000,000]

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4 **Ordinance authorizing the execution and delivery of certificates of participation**
5 **evidencing in an aggregate principal amount of not to exceed \$170,000,000 to: 1)**
6 **finance the seismic upgrade of and certain improvements to the War Memorial**
7 **Veterans Building; 2) authorizing the selection of a trustee by the Director of Public**
8 **Finance and approving the form of a trust agreement for the certificates of participation**
9 **between the City and County of San Francisco and the trustee named therein**
10 **(including certain indemnities contained therein); 3) approving the forms of a property**
11 **lease and a project lease between the City and the trustee of one or more portions of**
12 **the San Francisco War Memorial Performing Arts Center; 4) approving the form of an**
13 **official notice of sale and notice of intention to sell for the certificates of participation,**
14 **if sold by competitive sale; 5) authorizing the selection of underwriters by the Director**
15 **of Public Finance and approving the form of a purchase contract between the City and**
16 **the underwriters relating to the certificates of participation, if sold by negotiated sale;**
17 **6) approving the forms of a preliminary and final official statement with respect to the**
18 **certificates of participation; 7) approving the form of a continuing disclosure**
19 **certificate; 8) finding that the proposed project is categorically exempt from the**
20 **California Environmental Quality Act; 9) finding that the proposed project is in**
21 **conformity with the priority policies of Planning Code Section 101.1(b) and with the**
22 **General Plan consistency requirements of Charter Section 4.105 and Administrative**
23 **Code Section 2A.53; 10) granting general authority to City officials to take necessary**
24 **actions in connection with the authorization, issuance, sale and delivery of the**
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1 **certificates of participation; 11) approving modifications to documents and**
2 **agreements; and 12) ratifying previous actions taken in connection therewith.**

3 NOTE: Additions are single-underline italics Times New Roman;
4 deletions are ~~strike-through italics Times New Roman~~.
5 Board amendment additions are double-underlined;
6 Board amendment deletions are ~~strikethrough-normal~~.

7 WHEREAS, the Board of Supervisors of the City and County of San Francisco
8 (the "Board of Supervisors" or the "Board") desires to finance the construction and installation
9 of certain improvements in connection with the renovation of the San Francisco War Memorial
10 Veterans Building (the "Project"); and

11 WHEREAS, the Board desires to initially finance renovation activities for the
12 Project through the issuance of commercial paper under the City's commercial paper program
13 and to apply proceeds of certificates of participation authorized hereby (the "Certificates") to,
14 in part, repay such commercial paper, and interest thereon; and

15 WHEREAS, the Board desires to cause the execution and delivery of one or
16 more series of the Certificates to finance the Project pursuant to a trust agreement (the "Trust
17 Agreement"), between the City and the trustee named therein (the "Trustee"); and

18 WHEREAS, in connection with the execution and delivery of the Certificates, the
19 Board desires to cause the execution of a Property Lease (the "Property Lease"), pursuant to
20 which the City will lease to the Trustee one or more portions of the San Francisco War
21 Memorial Performing Arts Center (the "Leased Property") located on the real property (the
22 "Site") at 301 and 401 Van Ness Avenue, respectively, and a Project Lease (the "Project
23 Lease"), pursuant to which the Trustee will lease the Leased Property back to the City; and

24 WHEREAS, this Board has been presented with the form of certain documents
25 and agreements referred to herein relating to the Certificates, and the Board has examined

1 and is approving each such document and agreement and desires to authorize and direct the
2 execution of such documents and agreements and the consummation of such financing; and

3 WHEREAS, the adoption of this Ordinance shall constitute authorization of the
4 Certificates within the meaning of Section 864 of the California Code of Civil Procedure and
5 any Validation Act that is effective after this Ordinance takes effect; and

6 WHEREAS, the Certificates may be sold by competitive sale pursuant to an
7 official notice of sale and a notice of intention to sell or by negotiated sale; and

8 WHEREAS, the War Memorial Board of Trustees is the governing body of the
9 War Memorial and Performing Arts Center, which consists of four City-owned buildings: the
10 War Memorial Veterans Building, the War Memorial Opera House, Louise M. Davies
11 Symphony Hall, and Zellerbach Rehearsal Hall (collectively, the "War Memorial"); and

12 WHEREAS, the War Memorial is a charitable trust department under Article V of
13 the City Charter and as such, the War Memorial Board of Trustees has exclusive charge of
14 the trusts and all other assets under its jurisdiction, which may be acquired by loan, purchase,
15 gift, devise, bequest or otherwise, including any land or buildings set aside for their use; and

16 WHEREAS, the War Memorial Board of Trustees has authority to maintain,
17 operate, manage, repair or reconstruct existing buildings and construct new buildings, and to
18 make and enter into contracts relating thereto; and

19 WHEREAS, the execution and delivery of the Certificates and the pledge of the
20 Leased Property were approved by the War Memorial Board of Trustees by its Resolution No.
21 11-26 on June 9, 2011, and

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

24 Section 1. Recitals. All of the recitals herein are true and correct.

1 Section 2. Conditions Precedent. All conditions, things and acts required by law
2 to exist, to happen and to be performed precedent to and in the execution and delivery of
3 Property Lease, the Project Lease and the Certificates exist, have happened and have been
4 performed in due time, form and manner in accordance with applicable law, and the City is
5 now authorized pursuant to its Charter and applicable law to execute and deliver the Property
6 Lease and the Project Lease and to issue and cause the issuance of the Certificates in the
7 manner and form provided in this Ordinance.

8 Section 3. File Documents. The documents presented to this Board and on file
9 with the Clerk of the Board or her designee (collectively, the "Clerk") are contained in File No.
10 110750.

11 Section 4. Authorization of the Certificates; Credit Enhancement. The Board
12 hereby authorizes and approves the execution and delivery of the Certificates, which shall be
13 executed and delivered in accordance with the Project Lease and the Trust Agreement, as the
14 same are finally executed and delivered. The proceeds of the Certificates will be used to (i)
15 fund the Project, including repayment of commercial paper or other interim financing issued by
16 the City for such purpose, including interest thereon; (ii) fund a reserve fund, reserve surety or
17 other reserve fund instrument, as appropriate; (iii) fund any capitalized interest; and (iv) pay
18 costs of issuance of the Certificates. The Certificates shall be designated as "Certificates of
19 Participation (War Memorial Veterans Building Seismic Upgrade and Improvements)," or with
20 such other designation, including the year of execution and delivery, as deemed appropriate
21 by the Director of Public Finance of the City or her designee (collectively, the "Director of
22 Public Finance").

23 The Certificates shall evidence an aggregate principal amount not to exceed
24 One Hundred Seventy Million Dollars (\$170,000,000), and shall evidence interest at true
25 interest cost of not to exceed twelve percent (12%) per annum. The Certificates shall be

1 subject to prepayment as set forth in the Project Lease and Trust Agreement. This Board
2 authorizes the Director of Public Finance, to the extent such officer deems it necessary or
3 advisable and in the interests of the City, to procure credit enhancement for the Certificates,
4 including, but not limited to, municipal bond insurance or a debt service reserve fund surety
5 bond or other reserve fund instrument.

6 The Board hereby authorizes the Director of Public Finance, to the extent such
7 officer deems it necessary or advisable and in the interests of the City, to cause the execution
8 and delivery of the Certificates (i) with tax-exempt or taxable rates or (ii) under federal tax law
9 provisions, if any, which provide for federal grants or credits to or for the benefit of the City in
10 lieu of tax-exemption of interest or (iii) as "qualified private activity bonds" and to publish any
11 notices and conduct any public hearings in connection therewith.

12 Section 5. Approval of the Trust Agreement; Authorization of Selection of
13 Trustee. The form of the Trust Agreement between the City and the Trustee, as presented to
14 this Board, a copy of which is on file with the Clerk, is hereby approved. The Mayor of the City
15 or his designee (collectively, the "Mayor") is hereby authorized to execute the Trust
16 Agreement, and the Clerk, is hereby authorized to attest to and affix the seal of the City on the
17 Trust Agreement, with such changes, additions and modifications as the Mayor may make or
18 approve in accordance with Section 18 hereof.

19 The Director of Public Finance is hereby authorized to select the Trustee in
20 accordance with City policies and procedures, including but not limited to the City's policy to
21 provide locally disadvantaged business enterprises an equal opportunity to participate in the
22 performance of all City contracts.

23 Section 6. Approval of the Property Lease. The form of the Property Lease
24 between the City and the Trustee, as presented to this Board, a copy of which is on file with
25 the Clerk, is hereby approved. The Mayor is hereby authorized to execute the Property Lease,

1 and the Clerk, is hereby authorized to attest to and affix the seal of the City on the Property
2 Lease, with such changes, additions and modifications as the Mayor may make or approve in
3 accordance with Section 18 hereof.

4 Section 7. Approval of the Project Lease; Approval of Base Rental. The form of
5 the Project Lease between the City and the Trustee, as presented to this Board, a copy of
6 which is on file with the Clerk, is hereby approved. The Mayor is hereby authorized to execute
7 the Project Lease, and the Clerk is hereby authorized to attest and to affix the seal of the City
8 on the Project Lease with such changes, additions and modifications as the Mayor may make
9 or approve in accordance with Section 18 hereof; provided, however, that the maximum Base
10 Rental (as defined in the Project Lease) scheduled to be paid under the Project Lease in any
11 fiscal year shall not exceed Eighteen Million Five Hundred Thousand Dollars (\$18,500,000)
12 and the stated term of the Project Lease shall not have an initial term that extends beyond the
13 35th year following its date of execution, as such initial term may be extended in accordance
14 with the Project Lease.

15 Section 8. Approval of the Leased Property. The Board hereby approves of the
16 leasing, pursuant to the Property Lease and the Project Lease, of all or a portion of the
17 following Leased Property: (i) the War Memorial Veterans Building located at 401 Van Ness
18 Avenue in the City, and (ii) the War Memorial Opera House located at 301 Van Ness Avenue
19 in the City. The Board also hereby approves the payment by the City of the Base Rental with
20 respect thereto.

21 Section 9. Sale and Award of Certificates by Competitive Sale. In the event the
22 Director of Public Finance determines to sell the Certificates by competitive sale, the Director
23 of Public Finance, on behalf of the Controller, is hereby authorized to receive bids for the
24 purchase of the Certificates, and the Controller is hereby authorized and directed to award the
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1 Certificates to the bidder whose bid represents the lowest true interest cost to the City, all in
2 accordance with the procedures described in the Official Notice of Sale (as defined below).

3 Section 10. Approval of Form of Official Notice of Sale. The form of an official
4 notice of sale relating to the Certificates (the "Official Notice of Sale"), as presented to this
5 Board, a copy of which is on file with the Clerk, is hereby approved. The Director of Public
6 Finance is hereby authorized to approve the distribution of an Official Notice of Sale for the
7 Certificates, with such changes, additions and modifications as the Director of Public Finance
8 may make or approve upon consultation with the City Attorney.

9 Section 11. Approval of Notice of Intention to Sell relating to the Certificates. The
10 form of a notice of intention to sell relating to the Certificates (the "Notice of Intention to Sell"),
11 as presented to this Board, a copy of which is on file with the Clerk, is hereby approved. The
12 Director of Public Finance is hereby authorized to approve the publication of the Notice of
13 Intention to Sell relating to the Certificates, with such changes, additions and modifications as
14 the Director of Public Finance may make or approve upon consultation with the City Attorney.

15 Section 12. Sale of Certificates by Negotiated Sale; Approval of Purchase
16 Contract; Selection of Underwriters. In the event the Director of Public Finance determines to
17 sell the Certificates by negotiated sale, the Director of Public Finance is hereby authorized to
18 sell the Certificates by negotiated sale pursuant to one or more purchase contracts (each, a
19 "Purchase Contract") by and between the City and the underwriter named therein. The form
20 of such Purchase Contract as presented to this Board, a copy of which is on file with the
21 Clerk, is hereby approved. The Controller is hereby authorized to execute the Purchase
22 Contract with such charges, additions and modifications as the Controller may make or
23 approve in accordance with Section 18 hereof; provided, however, that the underwriters'
24 discount under any such Purchase Contract shall not exceed one percent (1%) of the principal
25 amount of the Certificates.

1 In order to accomplish the sale of the Certificates by negotiated sale, the
2 Director of Public Finance is hereby authorized to appoint one or more financial institutions to
3 act as underwriter for the Certificates in accordance with City policies and procedures,
4 including but not limited to the City's policy to provide locally disadvantaged business
5 enterprises an equal opportunity to participate in the performance of all City contracts.

6 Section 13. Approval of the Official Statement in Preliminary and Final Form.

7 The form of an official statement relating to the Certificates (the "Official Statement"), as
8 presented to this Board, a copy of which is on file with the Clerk, is hereby approved. The
9 Director of Public Finance is hereby authorized to prepare and cause the preparation of the
10 Preliminary and final Official Statements, for distribution to prospective investors, in
11 substantially said form, with such changes, additions and modifications as the Director of
12 Public Finance may make or approve upon consultation with the City Attorney and the City's
13 Disclosure Counsel, such that the Preliminary and final Official Statements are accurate and
14 complete in all material respects for the purposes for which they are provided. The Director of
15 Public Finance is hereby authorized to cause to be printed and mailed, and distributed
16 electronically, to prospective purchasers, copies of the Preliminary Official Statement and the
17 final Official Statement.

18 The Controller of the City or his designee (the "Controller") is hereby authorized
19 to cause the distribution of the Preliminary Official Statement, deemed final for purposes of
20 Rule 15c2-12 of the Securities and Exchange Act of 1934, as amended, and to sign a
21 certificate to that effect. The Controller is hereby further authorized to sign the Official
22 Statement in final form.

23 Section 14. Approval of the Continuing Disclosure Certificate. The form of a
24 Continuing Disclosure Certificate of the City, as presented to this Board, a copy of which is on
25 file with the Clerk, is hereby approved. The Controller is hereby authorized to execute the

1 Continuing Disclosure Certificate, with such changes, additions and modifications as the
2 Controller may make or approve upon consultation with the City Attorney.

3 Section 15. CEQA. The Board, having reviewed the proposed legislation, finds
4 and declares for the reasons set forth in the documentation from the City Planning
5 Department on file with the Clerk of the Board in File No. 110750 and incorporated by
6 reference, that the Project is categorically exempt from the California Environmental Quality
7 Act.

8 Section 16. General Plan. The Board finds and declares that the Project is (i) in
9 conformity with the priority policies of Section 101.1(b) of the City Planning Code, (ii) in
10 accordance with Section 4.105 of the San Francisco Charter and Section 2A.53(f) of the City
11 Administrative Code, and (iii) consistent with the City's General Plan, and hereby adopts the
12 findings of the City Planning Department, as set forth in the General Plan Referral Report,
13 dated June 9, 2011, and incorporates said findings by reference.

14 Section 17. General Authority. The Mayor, the City Attorney, the Controller, the
15 City Administrator, the Director of Public Finance, the Clerk and other officers of the City and
16 their duly authorized deputies, designees and agents are hereby authorized and directed,
17 jointly and severally, to take such actions and to execute and deliver such certificates,
18 agreements, requests or other documents as they may deem necessary or desirable to
19 accomplish the purposes of this Ordinance, including but not limited to the execution and
20 delivery of the Certificates, the Trust Agreement, the Property Lease, the Project Lease, the
21 Purchase Contract, to obtain bond insurance or other credit enhancements with respect to the
22 Certificates, to obtain title insurance, to clear any encumbrances to title, to survey property
23 and to carry out other title work.

24 Section 18. Modifications, Changes and Additions. The Mayor, the Controller
25 and the Director of Public Finance each are hereby authorized to make such modifications,

1 changes and additions to the documents and agreements approved hereby, upon consultation
2 with the City Attorney, as may be necessary or desirable and in the interests of the City, and
3 which changes do not materially increase the obligations of the City or reduce its rights under
4 such documents and agreements. The respective official's approval of such modifications,
5 changes and additions shall be conclusively evidenced by the execution and delivery,
6 distribution or publication thereof, as appropriate, by such official.

7 Section 19. Ratification of Prior Actions. All actions authorized and approved by
8 this Ordinance but heretofore taken are hereby ratified, approved and confirmed by this
9 Board.

10 APPROVED AS TO FORM:

11 DENNIS J. HERRERA, City Attorney

12
13 By:

Kenneth David Roux
14 KENNETH DAVID ROUX
15 Deputy City Attorney



City and County of San Francisco

Tails Ordinance

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

File Number: 110750

Date Passed: July 26, 2011

Ordinance authorizing the execution and delivery of certificates of participation evidencing in an aggregate principal amount of not to exceed \$170,000,000 to: 1) finance the seismic upgrade of and certain improvements to the War Memorial Veterans Building; 2) authorizing the selection of a trustee by the Director of Public Finance and approving the form of a trust agreement for the certificates of participation between the City and County of San Francisco and the trustee named therein (including certain indemnities contained therein); 3) approving the forms of a property lease and a project lease between the City and the trustee of one or more portions of the San Francisco War Memorial Performing Arts Center; 4) approving the form of an official notice of sale and notice of intention to sell for the certificates of participation, if sold by competitive sale; 5) authorizing the selection of underwriters by the Director of Public Finance and approving the form of a purchase contract between the City and the underwriters relating to the certificates of participation, if sold by negotiated sale; 6) approving the forms of a preliminary and final official statement with respect to the certificates of participation; 7) approving the form of a continuing disclosure certificate; 8) finding that the proposed project is categorically exempt from the California Environmental Quality Act; 9) finding that the proposed project is in conformity with the priority policies of Planning Code Section 101.1(b) and with the General Plan consistency requirements of Charter Section 4.105 and Administrative Code Section 2A.53; 10) granting general authority to City officials to take necessary actions in connection with the authorization, issuance, sale and delivery of the certificates of participation; 11) approving modifications to documents and agreements; and 12) ratifying previous actions taken in connection therewith.

July 13, 2011 Budget and Finance Committee - RECOMMENDED

July 19, 2011 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

July 26, 2011 Board of Supervisors - FINALLY PASSED

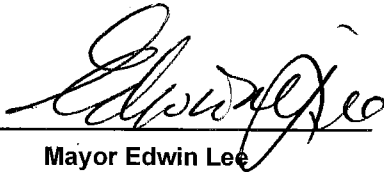
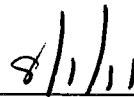
Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 110750

I hereby certify that the foregoing
Ordinance was FINALLY PASSED on
7/26/2011 by the Board of Supervisors of the
City and County of San Francisco.



Angela Calvillo
Clerk of the Board


Mayor Edwin Lee

Date Approved