

File No. 210776

Committee Item No. 5

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: Oct. 7, 2021

Board of Supervisors Meeting:

Date: _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Statement of Eligibility</u> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Capital Planning Memo – April 12, 2021</u> |
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Prepared by: John Carroll

Date: Oct. 1, 2021

Prepared by: John Carroll

Date: _____

Prepared by: John Carroll

Date: _____

1 [Sale of Transferable Development Rights - City Hall - 1 Dr. Carlton B. Goodlett Place]

2

3 **Resolution authorizing the Director of Property to sell up to 1,200,000 gross square feet**
4 **of transferable development rights (“TDR”) from City Hall, located at 1 Dr. Carlton B.**
5 **Goodlett Place, at or above fair market value; to execute and record Certificates of**
6 **Transfer; and to take such additional actions as may be necessary to effectuate one or**
7 **more TDR transfers in accordance with Planning Code, Section 128.**

8

9 WHEREAS, On April 27, 2003, the Board of Supervisors approved Ordinance No. 77-
10 04 which, among other things, amended San Francisco Planning Code, Section 128 to
11 provide that a lot zoned P (public) may be a Transfer Lot for purposes of conveying
12 Transferable Development Rights (“TDR”), provided that certain criteria outlined in Section
13 128(a)(4) are satisfied, and as further amended in Ordinance No. 87-07, approved by the
14 Board of Supervisors on April 27, 2007; and

15 WHEREAS, The Director of Property proposes to transfer up to 1,200,000 gross
16 square feet of TDR from City Hall (Assessor’s Parcel Block No. 0787, Lot No. 001) at 1 Dr.
17 Carlton B. Goodlett Place (“City Hall” or the “Property”) to finance the rehabilitation and
18 restoration of the Property in accordance with the Secretary of the Interior Standards; and

19 WHEREAS, Under the terms of Planning Code, Section 128, the transfer of TDR from
20 the Property to an eligible transferee or an eligible Development Lot requires certain
21 administrative actions by Director of Property, including, but not limited to, the recording of a
22 Certificate of Transfer against the Property that states the amount of TDR available for
23 transfer, and that the transfer of TDR permanently reduces the development potential of the
24 Property by the amount of TDR transferred; and

25

1 WHEREAS, The proposed TDR transfer would involve soliciting interested buyers,
2 negotiating applicable TDR Transfer Agreements (the “Agreements”), and establishing a
3 market value transfer price of the TDR; and

4 WHEREAS, It is in the interest of the City to sell TDR from the Property to effectuate
5 rehabilitation and restoration of City Hall; now, therefore, be it

6 RESOLVED, That, provided that the criteria and requirements of Planning Code,
7 Section 128 with respect to transfer of TDR are met, the Board of Supervisors authorizes the
8 Director of Property to execute and record the Certificate of Transfer and to negotiate and
9 execute Agreements and to take such other actions as reasonably required under Planning
10 Code, Section 128, to effectuate the transfer of up to 1,200,000 gross square feet of TDR
11 from the Property to buyers on a rolling basis, upon satisfaction of the following conditions: (i)
12 buyer has executed an Agreement (or Agreements), in form acceptable to the Director of
13 Property, City Administrator and City Attorney; and (ii) acquiring TDR at no less than \$32.50
14 per square foot, which will be subject to periodic fixed increases of \$2.50 per TDR unit,
15 variable increases of 15% or no increase as set forth in Exhibit A to this Resolution; and, be it

16 FURTHER RESOLVED, Any reduction of the Base Price for TDR below \$37.50 per
17 square foot is subject to approval by resolution by the Board of Supervisor; and, be it

18 FURTHER RESOLVED, All funds from the sale of TDRs from the Property shall be
19 placed into the segregated account established by the Controller as a trust asset to be used
20 solely for the rehabilitation and restoration of City Hall, (which may include payment of debt
21 service in furtherance of said rehabilitation and restoration) in accordance with the Secretary
22 of the Interior Standards; and, be it

23 FURTHER RESOLVED, That the Director of Property is hereby authorized and urged,
24 in the name and of behalf of the City and County, to execute and deliver the title to TDR to the
25 buyer upon the closing of escrow in accordance with the terms and conditions of the

1 applicable Agreement(s) as negotiated, and to take any all steps (including, but not limited to,
2 the execution and delivery of any and all certificates, agreements, notices, consents, escrow
3 instructions, closing documents and other instruments or documents) as the Director of
4 Property deems necessary or appropriate, in consultation with the City Attorney, to
5 consummate the sale of the TDR, or to otherwise effectuate the purpose and intent of this
6 Resolution, such determination to be conclusively evidenced by the execution and delivery by
7 the Director of Property of any such documents; and, be it

8 FURTHER RESOLVED, That the Director of Property will report to the Capital Planning
9 Committee and the Board of Supervisors' Budget & Finance Committee at the end of each
10 calendar year to report and update the results of sales of City owned TDR, and, should no
11 sales take place in the previous quarter, this reporting requirement will hereby be waived.

12
13 RECOMMENDED:
14
15

16 _____
17 /s/
18 Carmen Chu
19 City Administrator

20 _____
21 /s/
22 Andrico Q. Penick
23 Director of Property
24 Real Estate Division
25

1 Exhibit A to Resolution No. _____

2 TDR Pricing Schedule

3
4 Base Price as of September 1, 2021 is \$37.50 per square foot or TDR unit.

5 During the period from September 1, 2021 through December 31, 2022 (Initial Period),
6 cumulative TDR units sold¹ between 1 - 199,999 sq. ft. is at Base Price.

7 No Annual Price Adjustment – If 0 - 49,999 TDR units are sold during the Initial Period or any
8 other future calendar year, then no Annual Price Adjustment occurs after the 365th day of the
9 calendar year (or 486th day of the Initial Period).

10 Fixed Annual Increase – If 50,000 – 199,999 TDR units are sold during the Initial Period or
11 any other future calendar year, then the Base Price will increase by \$2.50 per unit (Base
12 Escalation Event) after the 365th day of the calendar year (or 486th day of the Initial Period).

13 Variable Increase – If 200,000 or more TDR units are sold during the Initial Period or any
14 other future calendar year, the then-current TDR unit price will immediately increase by 15%
15 (Premium Escalation Event).

16 Upon a Premium Escalation Event, the upcoming scheduled Fixed Annual Increase will be
17 delayed by one year (but will not compound with the next Fixed Annual Increase).

18
19
20
21
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24 _____
25 ¹ For purposes of this Resolution, TDR units will be considered “sold” when there is a fully executed Purchase Agreement for the sale of the TDR even if the parties have not yet closed escrow on the sale.

CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

October 1, 2021


TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: October 7, 2021 Government Audit and Oversight Committee Meeting

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<p>Item 5 File 21-0776</p>	<p>Department: Real Estate Division (RED)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would authorize the Director of Property to sell up to 1,200,000 gross square feet of transferable development rights (TDR) from City Hall at or above fair market value. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The Transfer of Development Rights program allows the sale of unused development potential from preservation properties to development properties, generating income for the maintenance and preservation of historic buildings while allowing new developments to build higher. Each TDR unit is equal to one square foot of gross floor area. • City Hall has a total of approximately 1,317,480 square feet of available TDR. The Real Estate Division is proposing to sell 1,200,000 square feet of TDR, keeping 117,840 units off market in the off chance that City Hall is expanded at some point. • The proposed resolution would set an initial price for TDR from City Hall at \$37.50 per square foot, with a schedule of future price increases if there is sufficient demand. The Director of Property would continue to monitor fair market value based on market conditions. Future Board of Supervisors approval would be required to sell TDR below \$37.50 per square foot. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • At the minimum rate of \$37.50 per square foot, the City would receive \$45,000,000 if all 1,200,000 TDR units are sold. Revenues may exceed this amount if sales are successful and price increases take effect. RED estimate that it will take approximately four to five years to sell all 1,200,000 units. • The revenues would be restricted for restoration projects in City Hall. RED, working with the Department of Public Works and Capital Planning, has identified four projects totaling approximately \$46.1 million. These are new projects that do not currently have dedicated funding sources. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

City Charter Section 9.118 (c) states that any sale of real property owned by the City and County of San Francisco is subject to Board of Supervisors approval. In addition, Planning Code Section 128 specifies the definitions, requirements, and procedures for determining and cancelling Transfer of Development Rights as well as the preservation, rehabilitation, and maintenance requirements.

BACKGROUND

In the mid-1980s, the City established the Transfer of Development Rights program to allow the sale of unused development potential from historic preservation properties to development properties. The goal was to generate income for the maintenance and preservation of historic buildings, while allowing new developments to build higher. Under Planning Code Section 128, owners of historic buildings located in C-3 Zoning Districts¹ may ask the Planning Department to certify their unused potential, known as Transferable Development Rights (TDR).

Once certified, the TDR units may then be transferred via a sale to another property in any other C-3 district. As of 2007, TDRs may also be transferred from any lot zoned P (public), provided that the other conditions for transfer outlined in Section 128(a)(4) are met. The revenue generated from the TDR sale must be used to rehabilitate the historic building according to the U.S. Secretary of the Interior's Standards for Treatment of Historic Properties.

Each TDR unit is equal to one square foot of gross floor area. To calculate TDR available from a historic preservation property, the difference between the building's existing floor area ratio (FAR) and that allowed under zoning limits is determined. Development properties may obtain TDR to build beyond what is allowed under FAR limits and up to zoned height limits. They may not, however, use TDR to exceed or disregard height, bulk, and setback limits, sunlight access requirements, or other restrictions.

In January 2014, the Board of Supervisors approved the sale of up to 1,100,000 square feet of TDR from the War Memorial Complex, at a sale price of no less than \$25 per square foot (File 13-1193).² To date, the Real Estate Division (RED) has sold 1,074,927 square feet of TDR at rates of \$25-35 per square foot, raising \$32,051,443 to pay debt service for the rehabilitation and restoration of the War Memorial Complex.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Director of Property to sell up to 1,200,000 square feet of TDR from City Hall at fair market value. City Hall has a total of approximately 1,317,480

¹ C-3 Zoning Districts are identified as downtown commercial districts and include Support (S), General (G), Office (O), or Retail (R) uses. In accordance with Section 128 of the Planning Code, any C-3 District parcel may be the recipient parcels for a TDR transaction.

² The resolution required the Director of Real Estate to submit enabling legislation to the Board of Supervisors to reauthorize TDR sales immediately upon reaching sales of 550,000 square feet. This reauthorization legislation was approved in September 2019 (File 19-0850).

square feet of available TDR. According to Director of Property Andrico Penick, RED is proposing to keep 117,840 units off market in the off chance that City Hall is expanded at some point.

Fair Market Value

An appraisal by Runde and Partners determined \$32.50 per square foot to be fair market value of the TDR. However, RED was able to sell TDR from the War Memorial Complex for \$35 per square foot in May 2020, with a scheduled increase of \$37.50 per square foot going into effect in July 2020. Therefore, Director Penick believes that \$37.50 per square foot is a fair starting price for City Hall TDR, with future price increases if there is sufficient market demand.

The proposed resolution provides that the TDR would be sold at no less than \$32.50 per square foot, although according to the proposed resolution, Board of Supervisors approval would be required to sell the TDR below \$37.50 per square foot. Exhibit A to the proposed resolution sets a base TDR price of \$37.50 per square foot, which would be in effect from September 2021 through December 2022.

The Resolution in File 19-0850 set a TDR price schedule for the War Memorial Complex with an initial rate of \$30 per square foot and semiannual increases of \$2.50 per square foot. Under that price schedule, the current rate for the period of July-December 2021 would be \$42.50 per square foot. According to Director Penick, RED decided to set a new pricing schedule because the old one no longer reflected market conditions under COVID-19. Director Penick asserts that the proposed starting price of \$37.50 per square foot is more attuned to current market conditions and can react to both “hot” and “cold” market conditions.

Future Adjustments to TDR Price

If fewer than 50,000 TDR units are sold during the initial period or any future calendar year, the base price would not increase. If 50,000-199,999 TDR units are sold during the initial period or any future calendar year, the base price would increase by \$2.50 per unit starting at the beginning of the next calendar year. If 200,000 or more TDR units are sold during the initial period or any future calendar year, the price would immediately increase by 15 percent. If the 15 percent increase is enacted, the scheduled \$2.50 increase would be delayed by one year.

According to Director Penick, the Director of Property would continue to monitor fair market value based on market conditions. If RED is unable to sell TDR within one year, the Director would analyze if the reason were due to lack of development, short term economic conditions, or other TDR sales at lower prices. If there were a robust market of TDR sales at a lower price, the Director may seek Board of Supervisors approval for a price reduction. Otherwise, the Director would wait for the market to catch up to the price outlined in the pricing schedule.

Transfer of TDR

According to Director Penick, RED has had discussions with potential buyers, but no sale commitments have been made at this time. TDR buyers are found either through brokers that connect buyers and sellers, or through the Planning Department’s Zoning Administrator, who tracks TDR sales. The Zoning Administrator must approve all transfers of development rights to ensure they are consistent with the Planning Code.

FISCAL IMPACT

The proposed resolution authorizes the Director of Property to sell up to 1,200,000 square feet of TDR at fair market value. At the minimum rate of \$37.50 per square foot, the City would receive \$45,000,000 if the full 1,200,000 TDR units are sold. Revenues may exceed this amount if sales are successful and price increases take effect. The proposed resolution provides for annual reporting to the Board of Supervisors Budget and Finance Committee on the results of TDR sales. Director Penick estimates that it will take approximately four to five years to sell all 1,200,000 units of TDR.

Under the proposed resolution, the TDR sale proceeds would be restricted for restoration projects in City Hall. According to Director Penick, four projects are currently anticipated, with an estimated total cost of approximately \$46.1 million, as shown in Exhibit 1 below.

Exhibit 1: Anticipated City Hall Improvement Projects

Project	Estimated Cost
Roof and Accessible Dome Leak Repairs- Phase II	\$3,000,000
Dome Revitalization of Coating, Drum Stone, and Windows	20,000,000
Exterior Perimeter Stone and Grout Refurbishments	7,000,000
Qualifying Interior Historic Preservation Projects	16,100,000
Total	\$46,100,000

According to Director Penick, these projects are new and do not currently have dedicated funding. Costs were estimated by RED staff, working with the Department of Public Works and Capital Planning. Additional funding sources for these projects would be required if costs exceed TDR sale revenues.

RECOMMENDATION

Approve the proposed resolution.

RECORDING REQUESTED BY:)
)
 Corey A. Teague)
 Zoning Administrator)
 Planning Department)
 City and County of San Francisco)
 49 South Van Ness Avenue, Suite 1400)
 San Francisco, CA 94103)
)
 WHEN RECORDED RETURN TO:)
)
 City and County of San Francisco)
 Real Estate Division)
 25 Van Ness Avenue, Suite 400)
 San Francisco, CA 94102)
 Attn: Andrico Penick)

STATEMENT OF ELIGIBILITY OF TDR – PLANNING CODE SECTION 128

NOTICE – The transfer of TDR certified as available for transfer in this Statement of Eligibility is subject to whatever rights exist in favor of third parties who assert or hold an interest in the real property described herein. The City, by issuing this Statement of Eligibility, does not take any position on or give any assurances regarding the existence or nonexistence of any such rights, nor of their effect, if any, upon TDR or transactions involving TDR.

SECTION 128(k) OF THE PLANNING CODE states that TDR shall convey the rights granted herein only for so long and to the extent authorized by the provisions of this Code. Upon repeal of such legislative authorization, TDR shall thereafter convey no rights or privileges. Upon such amendment of such legislative authorization, TDR shall thereafter convey only such rights and privileges as are permitted under the amendment. Section 128 of the Planning Code requires submittal of a report providing proof that any/all outstanding City violations are cured; a preservation, maintenance, and rehabilitation plan; an ongoing maintenance plan; and, copies of all permits and costs incurred for work that is going to be undertaken to implement the preservation, maintenance, and rehabilitation plan.

SECTION 128(l) OF THE PLANNING CODE requires the submittal of a Preservation, Rehabilitation, and Maintenance Plan at the time of application for an initial Certificate of Transfer of TDR from the Transfer Lot. The Plan shall describe any proposed preservation and rehabilitation work that guarantees the maintenance and upkeep of the Preservation Lot. Pursuant to Section 128(a)(4) of the Planning Code, the TDR proceeds are to be used to finance, in whole or in part, the rehabilitation and restoration of the building in accordance with the Secretary of Interior Standards.

Within one year of the issuance of the Certificate of Transfer, the owner of the Preservation Lot shall submit a status report showing that all work has been (or is being) completed and the ongoing maintenance of the property to the Zoning Administrator. Failure to comply with any of the above provisions is grounds for rescission of this Statement of Eligibility.

Case No.: 2021-000833TDE
Date Filed: January 25, 2021

TRANSFER LOT

Address: **1 Dr. Carlton B Goodlett Place**

Block/Lot: **0787 / 001**

Legal Description of Lot (attach additional sheets if necessary): **See Exhibit "A"**

Owners:

**City and County of San Francisco
Real Estate Division
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Andrico Penick**

Contact Person:

SAME AS ABOVE

Zoning: **P - Public**

Category of Building (I, II, III, IV, or V): None

Designation of Building (Significant, Contributory, or Category V): None

Conservation District: None

Landmark No.: 21 (City Hall)

Amount of TDR Available for Transfer: **1,200,000 units**

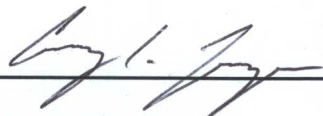
The TDR certified in this form are to be designated as described below, in accordance with Section 128(g)(2) of the Planning Code:

1,200,000
Amount

0787/001:0000001
Block/Lot: TDR Number

through

0787/001:1200000
Block/Lot: TDR Number



Corey A. Teague
Zoning Administrator
City and County of San Francisco
(Acknowledgement Attached)

5/6/2021
Date

Any appeal of the proposed Statement of Eligibility shall be filed with the Board of Appeals within twenty (20) days of the date of issuance of this Statement. If not appealed, the proposed Statement of Eligibility shall become final on the 21st day after the date of issuance.

Date Statement of Eligibility becomes final if not appealed: **May 27, 2021**

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Francisco)

On May 6th, 2021 before me, Kwei San, Notary Public
(insert name and title of the officer)

personally appeared Corey A. Teague
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

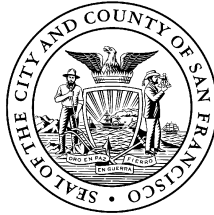


Signature Kwei San (Seal)

Acknowledgement by Teague

EXHIBIT A

LEGAL DESCRIPTION OF TRANSFER LOT



MEMORANDUM

April 12, 2021

To: Members of the Board of Supervisors
From: Carmen Chu, City Administrator & Capital Planning Committee Chair
Copy: Angela Calvillo, Clerk of the Board
Capital Planning Committee
Regarding: (1) City Hall Transferable Development Rights

C Chu

In accordance with Section 3.21 of the Administrative Code, on April 5, 2021, the Capital Planning Committee (CPC) approved the following action items to be considered by the Board of Supervisors. The CPC's recommendations are set forth below.

1. Board File Number: TBD Approval of the resolution authorizing the Director of Property to sell up to 1,141,873 units of Transferable Development Rights (TDR) from City Hall at fair market value.

Recommendation: Recommend the Board of Supervisors approve the resolution.

Comments: The CPC recommends approval of this item by a vote of 11-0.

Committee members or representatives in favor:

Carmen Chu, City Administrator; Ashley Groffenberger, Mayor's Budget Director; Shamann Walton, Board President; Alaric Degrafinried, Acting Director, Public Works; Bridget Katz, Controller's Office; Jonathan Rewers, SFMTA; Ivar Satero, Director, Airport; Elaine Forbes, Executive Director, Port of San Francisco; Rich Hillis, Director, Planning; Phil Ginsburg, General Manager, Recreation and Parks Department; Kathy How, SF Public Utilities Commission.



MEMORANDUM

DATE: June 25, 2021

TO: Mayor London Breed and Members of the Board of Supervisors

FROM: Carmen Chu, City Administrator & Capital Planning Committee Chair

Andrico Q. Penick, Director of Property

SUBJECT: Resolution Authorizing the Director of Real Estate to sell up to 1,200,000 gross square feet of transferable development rights ("TDR") from City Hall, located at 1 Dr Carlton B Goodlett Pl, at or above fair market value

The City owns certain real property located at 1 Dr. Carlton B. Goodlett Place in San Francisco at Block 0787 Lot 001 ("City Hall"). On behalf of the City Administrator, the Real Estate Division ("RED") intends to seek authorization from the Board of Supervisors to sell transferrable development rights ("TDR") from City Hall at fair market value.

City Hall has 1,317,480 total units of TDR available. However, the Director of Real Estate is only seeking authorization to sell 1,200,000 units of TDR. The remaining TDRs will be held off market in reserve in case of future development.

With the start of the City Hall TDR program, we are building upon the success of the War Memorial. Under the War Memorial TDR program, we successfully sold approximately 1,100,000 TDR units and generated approximately \$32 million dollars in gross revenue. We anticipate that the City hall TDR program could generate approximately \$41 - \$50 million dollars. All funds from the sale of City Hall TDRs shall be placed into the segregated account established by the Controller as a trust asset to be used solely for the rehabilitation and restoration of City Hall, (which may include payment of debt service in furtherance of said rehabilitation and restoration) in accordance with the Secretary of the Interior Standards.