

File No. 130227

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Sub-Committee

Date 03/27/2013

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
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| <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 |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
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Completed by: Victor Young Date March 22, 2013

Completed by: Victor Young Date _____

1 [Lease - Van Ness Post Center, LLC - Law Library - 1200 Van Ness Avenue]

2
3 **Resolution finding that 20,000 net rentable square feet is suitable and sufficient for the**
4 **Law Library; authorizing the Director of Property to enter into a lease with Van Ness**
5 **Post Center, LLC, for the Law Library at 1200 Van Ness Avenue; finding that the**
6 **proposed relocation of the Law Library to such space is in conformance with the City's**
7 **General Plan and the priority policies of Planning Code Section 101.1; and authorizing**
8 **the Director of Property to find alternative comparable space if a lease with Van Ness**
9 **Post Center, LLC, cannot be finalized.**

10
11 WHEREAS, State Law and the City's Charter require the City to provide the San
12 Francisco Law Library ("Law Library"), a legal entity separate from the City, with suitable and
13 sufficient quarters; and

14 WHEREAS, State law, 1869-70 Cal. Stat. (the "1870 Act"), requires the City to provide
15 the Law Library with "fuel, lights and stationery and all necessary conveniences and care,
16 rooms convenient and accessible to the Courts, sufficient for the use and accommodation of
17 said law library and those who have occasion for its use."; and

18 WHEREAS, The 1870 Act further states that: "the Board of Supervisors of the City and
19 County of San Francisco are hereby authorized, empowered and required to appropriate,
20 allow and order paid out of the General Fund such sums as may be necessary" for the above
21 purposes; and

22 WHEREAS, Section 8.103 of the City's Charter requires the City to "provide suitable
23 and sufficient quarters for the Law Library, fix up and furnish the same and provide for the
24 supply of necessary light, heat, stationery and other conveniences" and to fund the salaries of
25 three positions at the Law Library (the Librarian, Assistant Librarian and Bookbinder); and

1 WHEREAS, Since 1995, the City has provided the Law Library with approximately
2 14,310 square feet of space at 401 Van Ness Avenue, the War Memorial Veterans Building,
3 under a Memorandum of Understanding between the War Memorial Board of Trustees and
4 Director of Property, dated as of October 26, 1994; and

5 WHEREAS, The War Memorial Veterans Building will undergo a significant renovation
6 starting in the summer of 2013, requiring the vacation of the entire building; and

7 WHEREAS, The War Memorial Board of Trustees, authorized to determine the
8 occupancies of the War Memorial Veterans Building, will not provide space to the Law Library
9 after the completion of the renovation; and

10 WHEREAS, Following a lengthy search process, the Director of Property has found
11 suitable and sufficient space for the Law Library at 1200 Van Ness Avenue, owned by Van
12 Ness Post Center, LLC ("Landlord"), convenient and accessible to the Civic Center courts and
13 immediately proximate to transit and garage parking; and

14 WHEREAS, The City has determined that the 20,000 net rentable square feet at 1200
15 Van Ness Avenue is suitable and sufficient for the Law Library, and desires to secure these
16 premises for the Law Library as soon as possible; and

17 WHEREAS, In connection with any such relocation, the City will be required to pay for
18 tenant improvements, presently estimated not to exceed \$1,000,000; and

19 WHEREAS, The Director of Property must negotiate a final lease agreement with
20 Landlord to relocate the Law Library; and

21 WHEREAS, The Planning Department determined that the proposed relocation of the
22 Law Library to 1200 Van Ness Avenue is consistent with the City's General Plan and the Eight
23 Priority Policies of Planning Code Section 101.1; now, therefore, be it

24 RESOLVED, That the Board of Supervisors finds that the proposed lease premises at
25 1200 Van Ness Avenue, of no greater than 20,000 net rentable square feet, is suitable and

1 sufficient for the Law Library, and is consistent with the City's General Plan and the Eight
2 Priority Policies of Planning Code Section 101.1; and, be it

3 FURTHER RESOLVED, That in accordance with the recommendation of the Director
4 of Property, the Board of Supervisors hereby authorizes the Director of Property to enter into
5 a lease for the Law Library at 1200 Van Ness Avenue on the following terms (the "Lease"): (1)
6 the leased premises shall be up to 20,000 square feet on the ground floor and first floor of the
7 building, (2) for a term of five years, with up to 4 five-year options to renew the term at
8 reasonable rates determined by the Director of Property, (3) at an initial year base rental rate
9 not to exceed \$720,000 per year (or approximately \$3.00 per foot), with reasonable base rent
10 increases in future years tied to increases in the Consumer Price Index, (4) the landlord will
11 provide, at the City's cost, tenant improvements for the leased premises suitable for a law
12 library, at an agreed upon cost (provided, the City's payment for tenant improvements and
13 relocation shall not collectively exceed \$1,000,000), (5) City shall pay utilities, common area
14 charges and its reasonable share of operating expenses, and (6) on such other terms and
15 conditions as determined by the Director of Property following consultation with the City
16 Attorney; and, be it

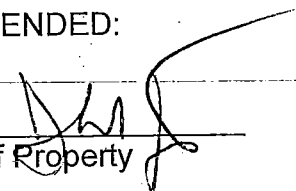
17 FURTHER RESOLVED, Following negotiations for the Lease, the Director of Property
18 is authorized to enter into and take such actions as required to implement the Lease; and, be
19 it

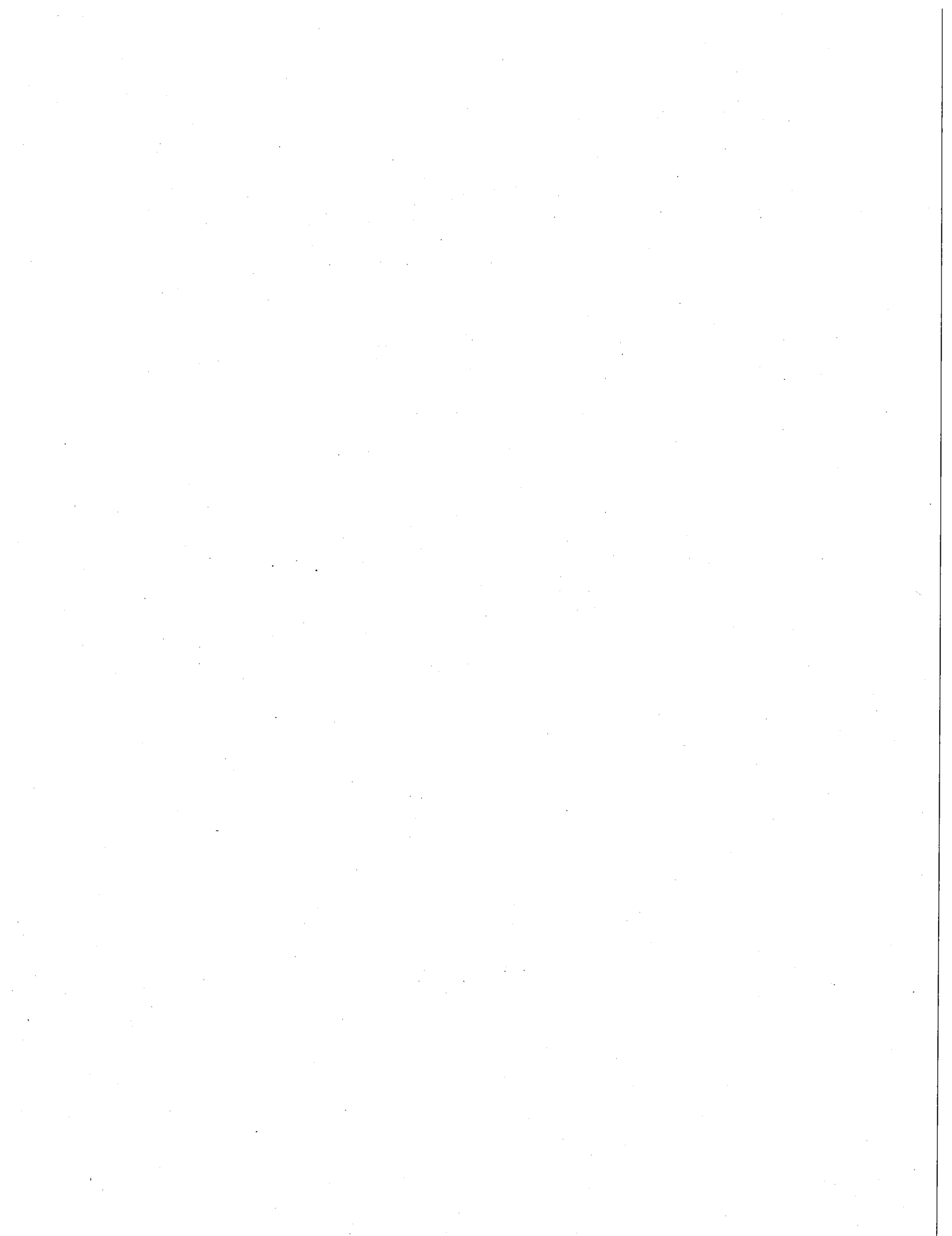
20 FURTHER RESOLVED, In the event that that the negotiations for the Lease of 1200
21 Van Ness Avenue are unsuccessful, the Board of Supervisors also approves and authorizes
22 the Director of Property, on behalf of the City to negotiate and finalize a lease for a
23 comparable space of similar size and rent for the Law Library that does not exceed the
24
25

1 amounts specified in this resolution and consistent with the other terms specified in this
2 resolution, and to bring such alternative lease promptly to this Board for review and
3 consideration; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
5 Property, in consultation with the City Attorney, to enter into any additions, amendments or
6 other modifications to the Lease that the Director of Property determines are in the best
7 interests of the City, do not materially increase the obligations or liabilities of the City or
8 materially decrease the benefits to the City, and are in compliance with all applicable laws,
9 including the City's Charter.

10 RECOMMENDED:

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13 _____
14 Director of Property
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Item 4
File 13-0227

Department:
Real Estate Division, Department of Administrative Services

EXECUTIVE SUMMARY

Legislative Objectives

The proposed resolution would (1) approve the finding that no greater than 20,000 net rentable square feet is suitable and sufficient for the Law Library and (2) authorize the Director of Property to enter into a lease agreement that is currently being negotiated, with the Van Ness Post Center, LCC for up to 20,000 net square feet at 1200 Van Ness Avenue. The proposed resolution would also authorize the Director of Property to negotiate and finalize a lease for alternate comparable space if a lease with Van Ness Post Center, LLC is not executed.

Key Points

- Pursuant to State Law, the 1870 Act, the City and County of San Francisco must provide a Law Library for public use. Charter Section 8.103 is consistent with the 1870 Act and states that the City must provide "suitable" and "sufficient" accommodations for the Law Library.
- The Law Library is currently located in the War Memorial Veterans Building and must vacate the building once it closes for seismic renovations this summer. The Real Estate Division has located a property at 1200 Van Ness Avenue for the Law Library's relocation.
- Pursuant to the proposed resolution, the lease terms that are being negotiated between the City and Van Ness Post Center, LLC are as follows: (1) not-to-exceed 20,000 net square feet; (2) base rent of not-to-exceed \$720,000 or \$36.00 per square foot per year; (3) one five-year term with 4 five-year options to renew (for a total 25 year term); (4) 3% annual increase in base rent; (5) 30,000 for FY 2012-13 increasing by \$300 each year; (6) tenant improvement and relocation costs not-to-exceed \$1,000,000 paid for by the City; (7) and any other terms and conditions the Director finds necessary to execute the lease.
- Under the proposed resolution, Board of Supervisors approval would not be required for the finalized lease between Van Ness Post Center, LLC, and the City. The Budget and Legislative Analyst recommends amending the proposed resolution to require Board of Supervisors approval of the finalized lease.
- The proposed lease would initially include approximately 15,633 net square feet on the first floor of 1200 Van Ness Avenue. In addition, the Letter of Intent between the City and Van Ness Post Center, LLC provides for the City to have the right of first offer to other spaces in the building, if these spaces become available when the current tenants vacate, which would increase the leased space by approximately 4,367 net square feet for total leased space at 1200 Van Ness Avenue of 20,000 net square feet. The proposed resolution should be amended to require Board of Supervisors approval for any lease modification that exercises the right of first offer.
- The proposed resolution does not explicitly state that if an alternate lease is needed in the event that the lease for 1200 Van Ness Avenue is not executed, it would be brought before the Board of Supervisors for approval; therefore, the Budget and Legislative Analyst recommends amending the proposed resolution by replacing the word "consideration" with "approval" to ensure that whatever final leased space is provided for the Law Library is approved by the Board of Supervisors prior to its execution.
- After the proposed resolution was drafted, Mr. John Updike, Director of Real Estate, advised the Budget and Legislative Analyst that the proposed resolution should include one five-year option to renew the lease subject to Board of Supervisors approval, rather than 4 five-year options. Therefore, page 3, line 7 of the proposed resolution should be amended to delete "up to 4 five-year options" and add "one five-year option."

Fiscal Impact

- Under the proposed resolution, the City would pay not to exceed \$720,000 annually in rent based on \$36.00 per square foot per year, increased by 3% per year, for up to 20,000 square feet and \$30,300 annually for utilities for a total of up to \$750,300 in annual rent and utilities in FY 2013-14. The City would also pay a one-time cost of up to \$1,000,000 previously appropriated by the Board of Supervisors in tenant improvement and relocation costs, subject to the Budget and Finance Committee's release of the reserve, for a total of \$1,750,300 in FY 2013-14.
- The Law Library's rent and utility costs of up to \$750,300 in FY 2013-14 under the proposed resolution for the new lease are \$559,869, or 294% more, than the FY 2012-13 occupancy fee paid by the Law Library to the War Memorial of \$190,431. The Board of Supervisors will need to appropriate up to an additional \$559,569 in General Fund monies in the Law Library's FY 2013-14 budget to pay for the estimated additional rent costs if the proposed new lease is approved.

Policy Consideration

- Under the proposed resolution, the Board of Supervisors finds that the proposed property at 1200 Van Ness Avenue for no greater than 20,000 net square feet is "suitable" and "sufficient" for the Law Library pursuant to Charter Section 8.103; however, because the terms are not defined in the City Charter, it is up to the discretion of the Board of Supervisors to make this finding.
- The Law Library filed a Writ of Mandate against the City alleging that "at least 30,000 gross square feet is required for any space to be at least minimally adequate" and requested that the City is ordered to provide space consisting of "between 30,000 and 35,000 gross square feet."
- According to Mr. Updike, the increase in space from 12,816 net square feet to no greater than 20,000 net square feet is necessary to accommodate the Law Library's collection and customer work space. A report prepared for the Director of Real Estate by a consultant, determined that the 20,000 net square feet at 1200 Van Ness Avenue is "suitable and sufficient" based on certain conditions, including (1) equipping customer workspace with internet access, and (2) installing compacting shelving.¹
- Because the proposed resolution is a finding that no greater than 20,000 net square feet is sufficient and suitable for the Law Library in accordance with the City Charter, approval of the proposed resolution is a policy matter for the Board of Supervisors

Recommendations

- Amend the proposed resolution to require Board of Supervisors approval of the finalized lease between the City and Van Ness Post Center, LLC.
- Amend the proposed resolution to require Board of Supervisors approval for any lease modification that exercises the right of first offer for additional space at 1200 Van Ness Avenue.
- Amend page 3, line 7 of the proposed resolution to delete "up to 4 five-year options" and add "one five-year option".
- Amend page 4, line 2 of the proposed resolution to delete "consideration" and add "approval", in order to ensure that any alternate lease to the proposed lease between the City and Van Ness Post Center LLC is subject to Board of Supervisors approval.
- Approval of the proposed resolution, as amended, is a policy matter for the Board of Supervisors.

¹ Compacting shelving is shelving installed on tracks, so that the shelves can be installed without aisles between the shelves but can be moved on the tracks for access.

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

In accordance with Administrative Code Section 23.27, leases in which the City is the tenant are subject to Board of Supervisors approval under certain conditions.

Pursuant to Charter Section 9118(c), any lease of real property for a period of ten or more years, including options to renew, by the City and County of San Francisco is subject to approval by the Board of Supervisors.

Pursuant to Charter Section 8.103, the City is required to provide suitable and sufficient quarters for the Law Library that is accessible to judges and officers of the court. Section 8.103 also requires the City to fund the salaries for at least three positions in the Law Library budget.

Background

Pursuant to California State Law, specifically the 1870 Act, the City and County of San Francisco must provide a Law Library for public use. The 1870 Act established the Law Library as a legal entity, separate from the City and County, and requires the Board of Supervisors to appropriate General Fund monies for the following provisions:

“fuel, lights and stationary and all necessary conveniences and care, rooms convenient and accessible to the Courts, sufficient for the use and accommodation of said law library and those who have occasion for its use.”

The City and County of San Francisco Charter Section 8.103 is consistent with the 1870 Act and states that the City must provide “suitable” and “sufficient” accommodations for the Law Library as well as free access to the legal community as well as the general public. The Charter also requires the City to pay for the salaries of three positions in the Law Library budget including: 1) the Librarian, 2) the Assistant Librarian, and 3) the Bookbinder.

In the FY 2012-13 budget, as previously approved by the Board of Supervisors, the Board of Supervisors appropriated \$738,179 of General Fund monies for the Law Library budget, of which \$486,840 was to pay for salaries and fringe benefits for the three positions noted above and the remaining balance of \$251,339 to pay for rent, insurance, telephone and information systems, and general supplies needed by the Law Library. The Law Library receives additional funding for their programming and operating expenses from Superior Court filing fees.

The Law Library's Occupancy at the War Memorial Veteran's Building

The Law Library was originally located in City Hall. When City Hall closed for seismic renovations in 1995, the Law Library, the Mayor's office, the Board of Supervisors, and the Chief Administrative Officer were relocated to the War Memorial Veterans Building until the renovations were complete.

On September 27, 1994, the City's Director of Property executed a Memorandum of Understanding (MOU) between the City and the War Memorial Board of Trustees for the exclusive use of 59,961 square feet of space on the third and fourth floors of the War Memorial Veterans Building at 410 Van Ness Avenue, of which the Law Library was initially allocated 8,559 net square feet of space for the Law Library operations.² The initial term of the MOU was for three-years and three-months which commenced on October 1, 1994 and expired December 31, 1997 with the option to extend for two additional six-month terms.

According to Ms. Elizabeth Murray, Managing Director of the San Francisco War Memorial and Performing Arts Center, the use of space for City departments in the War Memorial Veterans Building, including the 8,559 net square feet of space for the Law Library, was intended to be temporary. Moreover, it was understood that the Law Library would move out once the War Memorial was closed for seismic renovations in future years.

Since the original MOU was executed in 1994, the City has exercised the two, six-month extensions for space at the War Memorial Veterans Building and also executed two additional extensions.³ On September 15, 2011, the War Memorial provided the City with a notice of termination of the MOU effective February 28, 2013 in order to seismically retrofit and renovate the War Memorial Veterans Building. The renovations are scheduled to begin this summer. According to Ms. Murray, no move-out schedule has been confirmed by the Law Library at this time, but the War Memorial has advised the Law Library that their optimum move-out period would be between May 17 and May 31, 2013.

Under the MOU between the City and the War Memorial Board of Trustees, the City paid the War Memorial an occupancy fee, which was calculated by dividing the total estimated cost of personnel, utilities and services for the third and fourth floors by the total rentable square footage of the two floors. The occupancy rate increased each year based on increases in costs of utilities and services. Table 1 below shows the occupancy fee schedule for the Law Library from FY 2008-2009 to FY 2012-13. Such occupancy fees were paid from the General Fund which were appropriated to the Law Library by the Board of Supervisors during the annual budget.

As shown in Figure 1 below, in FY 2009-10, the Library was allocated an additional 4,257 square feet, increasing the net square feet from 8,559 to 12,816.

² The MOU provided office space on the 3rd and 4th floors of the War Memorial Veterans Building for City Hall tenants displaced by the reconstruction of City Hall after the Loma Prieta earthquake, including the Clerk of the Board, Board of Supervisors, and Mayor's Office. Subsequently, other City tenants, including the Municipal Railway (Muni), Treasurer/Tax Collector's Office, Mayor's Office of Disability and the Department of the Environment occupied space on the 3rd and 4th floors of the War Memorial Veterans Building.

³ The first extension was a three-year extension from January 1, 1999 through December 31, 2001. The second extension began January 1, 2002 and would continue until the War Memorial Veterans Building closes for seismic retrofitting or until the space is otherwise required by the Board of Trustees.

Table 1
Law Library Occupancy Fee Schedule from FY 2008-09 through FY 2012-13

Fiscal Year	Rate Per Gross Square Foot	Net Square Feet	Gross Square Feet ¹	Occupancy Fee
FY 2008-09	\$12.19	8,559	10,208	\$124,436
FY 2009-10	\$12.19	12,816	14,310	\$174,439
FY 2010-11	\$12.92	12,816	14,310	\$184,885
FY 2011-12	\$13.31	12,816	14,310	\$190,431
FY 2012-13 (11 mos.) ²	\$13.31	12,816	14,310	\$174,561

¹According to Ms. Murray, the City pays rent based on the Library's gross square feet which includes the Law Library's net square feet and their pro-rated share of the 4th floor common space.

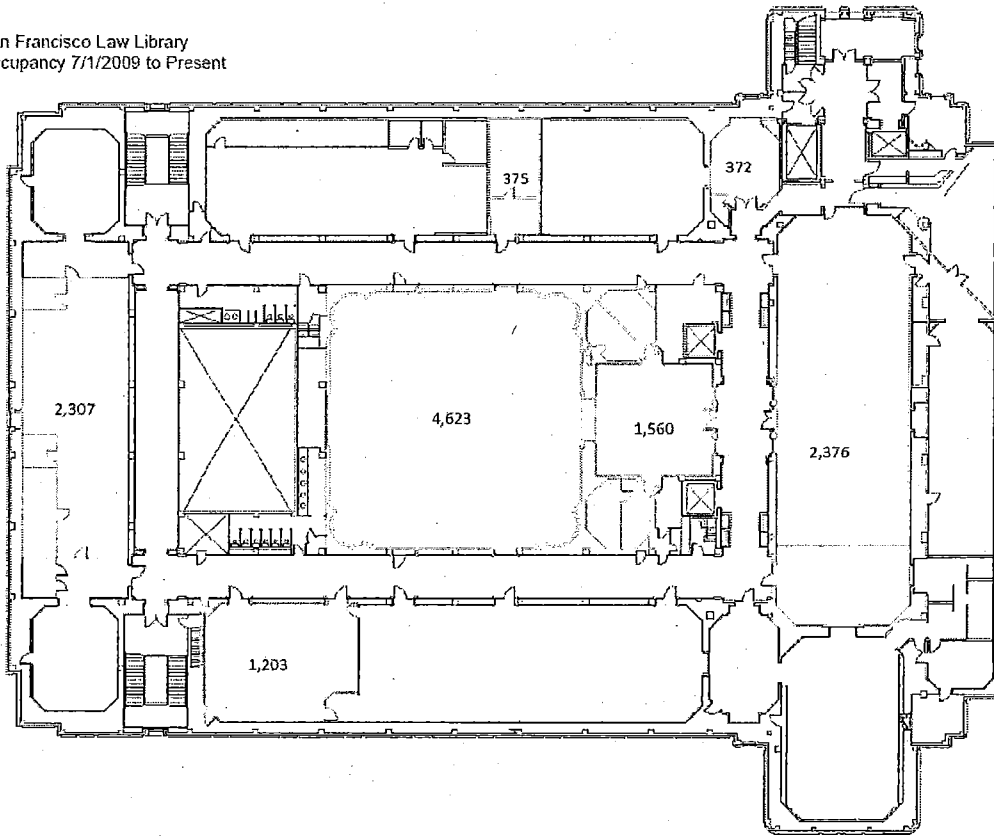
²This amount assumes that the Library completely vacates the War Memorial Veteran Building by June 1, 2013.

Figure 1 shows the Law Library's use of space in the War Memorial Veterans Building.

Figure 1
Square Footage of the Law Library in the War Memorial Veterans Building

Veterans Building - 4th Floor

San Francisco Law Library
 Occupancy 7/1/2009 to Present



*Total of 12,816 net square feet.

Because the Law Library must vacate the War Memorial Veterans Building before the War Memorial Veterans Building closes for seismic renovations this summer, the Real Estate Division must find alternative space for the Law Library that is “suitable” and “sufficient” for the Law Library.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would:

- (1) Find that no greater than 20,000 square feet of net rentable space is suitable and sufficient for the Law Library;
- (2) Authorize the Director of Property (also known as the Director of Real Estate) to enter into a lease agreement, which is currently being negotiated, between the City as the tenant and Van Ness Post Center, LLC, as the landlord, for no more than 20,000 net square feet on the ground floor and first floor at 1200 Van Ness Avenue for the Law Library based on the terms listed in Table 2 below and without further approval by the Board of Supervisors;
- (3) Authorize the Director of Property to take such actions necessary to implement the proposed lease between the City and Van Ness Post Center, LLC;
- (4) In the event that the lease agreement with the Van Ness Post Center, LLC is not executed, authorize the Director of Property to negotiate a lease for alternative space consisting of similar size, rent, and terms listed below; and
- (5) Authorize the Director of Property to enter into any needed additions or modifications to the proposed lease that would not increase the obligations or liabilities of the City.

As noted above, under the proposed resolution, Board of Supervisors approval would not be required for the finalized lease between Van Ness Post Center, LLC, and the City. The Budget and Legislative Analyst recommends amending the proposed resolution to require Board of Supervisors approval of the finalized lease.

Under the proposed resolution, if the lease agreement with Van Ness Post Center, LLC is not executed, the Director of Property is authorized to negotiate and finalize an alternate lease with comparable terms and subsequently bring the alternate lease to the Board of Supervisors for “review” and “consideration” but not for approval. Because the proposed resolution does not explicitly state that the alternate lease would be brought before the Board of Supervisors for approval, the Budget and Legislative Analyst recommends replacing the word “consideration” with “approval” to ensure that whatever alternate lease is provided for the Law Library, such lease must be subject to approval of the Board of Supervisors prior to its execution in accordance with Administrative Code Section 23.27.

Proposed Lease Terms Contained in the Resolution

The lease terms in the proposed resolution and that Mr. Updike is proposing to negotiate at 1200 Van Ness Avenue for the Law Library are included in Table 2 below.

Table 2
Proposed Lease Terms for 1200 Van Ness Avenue

Terms	Description
Square feet	Not-to-exceed 20,000 net square feet
Base Rent	Not-to exceed \$720,000 (\$3.00 per square foot per month or \$36.00 per square foot per year)
Term	Five-year term with up to 4 five-year options to renew (for a total term of 25 years)
Annual Base Rent Increase	3%
Utilities Payable by City	\$30,000 for FY 2012-13 increasing by \$300 each year
Tenant Improvements & Relocation	Not-to-exceed \$1,000,000 which was previously appropriated by Board of Supervisors in the FY 2013-2014 budget
Other Terms and Conditions	The Director of Property would be authorized to enter into other needed terms to execute the lease, following consultation with the City Attorney, that would not increase the obligation or liability of the City.

After the proposed resolution was drafted, Mr. John Updike, Director of Real Estate, provided a Letter of Intent providing for one five-year renewal option rather than 4 five-year renewal options as stated by the proposed resolution. Therefore, page 3, line 7 of the proposed resolution should be amended to delete "up to 4 five-year options" and add "one five-year option".

According to Mr. Updike, the City considered a number of properties for the purposes of providing space for the Law Library. The properties that were seriously considered before entering into negotiations with Van Ness Post, LLC for 1200 Van Ness Avenue included 155 Hayes Street, 1275 Market Street, 1455 Market Street, and 11 Grove Street, according to Mr. Updike.

Based on comparable leases surveyed by the Real Estate Division, the average rent paid for space by current tenants in the Civic Center/Van Ness Corridor is \$38.25 per square foot per year. The average rent for comparable space that is currently on the market in the Civic Center/Van Ness Corridor is \$36.15 per square foot per year which is within range of what the City would pay for space at 1200 Van Ness Avenue, which is \$36.00 per square foot per year.

The proposed lease would initially include approximately 15,633 net square feet on the ground floor of 1200 Van Ness Avenue. In addition, the Letter of Intent provides for the City to have the right of first offer to other spaces in the building, if these spaces become available when the current tenants vacate, which would increase the leased space by approximately 4,367 net square feet for total leased space at 1200 Van Ness Avenue of 20,000 net square feet.⁴ The proposed resolution should be amended to require Board of Supervisors approval for any lease modification that exercises the right of first offer.

Pursuant to the proposed resolution, if a lease agreement cannot be negotiated between the City and Van Ness Post Center, LLC, Mr. Updike, would be authorized to negotiate an alternative lease agreement with a different landlord for similar terms as those shown in Table 2 above. The proposed resolution states that the terms of an alternative lease would not exceed any of the

⁴ According to Mr. Updike, the actual measurements will not be taken until later when the lease is finalized.

amounts in the terms set forth in Table 2 above, which would not increase the obligation or liabilities of the City.

The Budget and Legislative Analyst inquired about the “other terms and conditions” mentioned in the proposed resolution that the Director of Property would be authorized to enter into on behalf of the City upon approval of the proposed resolution, as long as such terms would not increase the obligations and liabilities of the City. Mr. Updike advised that a number of issues could potentially arise during lease negotiations such as matters related to commencement dates or insurance.

Tenant Improvements and Relocation Cost

The proposed tenant improvements and relocation costs, not to exceed \$1,000,000 that would be made at 1200 Van Ness Avenue to accommodate the Law Library include:

- 1) removing sheetrock from windows that were previously covered,
- 2) removing an interior office suite and installing offices and cubicles for the Library staff,
- 3) constructing walls for conference rooms, training rooms, and a server room,
- 4) installing a new entrance on Van Ness Avenue and closing the current entrance,
- 5) installing stacks for books, and
- 6) making lighting, electrical, and mechanical changes to support the improvements mentioned above.

Mr. Updike noted that the total cost for tenant improvements along with the cost to physically relocate the Library cannot exceed \$1,000,000 as shown in Table 3 below, which was previously appropriated by the Board of Supervisors in the Department of Public Works in the FY 2013-14 budget, and placed on Budget and Finance Committee reserve, in anticipation of the Law Library’s relocation.

**Table 3
Tenant Improvement and Relocation Budget**

Tenant Improvement Allowance (\$40/sq.ft.)	\$800,000
Relocation	\$100,000
Furnishings (cubicles, desks, phones, etc.)	\$100,000
Total	\$1,000,000

At the time of writing this report, Mr. Updike, is in the process of negotiating a Letter Of Intent (LOI) with Van Ness Post Center, LLC for property at 1200 Van Ness Avenue which would finalize the terms of the lease that would be subsequently drafted. However, at this time the terms have not been finalized.

FISCAL IMPACT

Under the proposed resolution, the City would pay not to exceed \$720,000 annually in rent based on \$36.00 per square foot per year for up to 20,000 square feet and \$30,300 annually for utilities for a total of up to \$750,300 in annual rent and utilities in FY 2013-14. The City would also pay a one-time cost of up to \$1,000,000 in tenant improvement and relocation costs, subject to the Budget and Finance Committee’s release of the reserve, for a total of \$1,750,300 in FY 2013-14

for the Law Library's leased space at 1200 Van Ness Avenue. As shown in Table 4 below, total estimated lease costs for the initial five-year term of the lease are \$5,039,577.

Table 4
Estimated Rent, Utilities, and Relocation and Tenant Improvement Costs

	FY 2012-13 ¹	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2016-17	Total
Rent	\$60,000	\$720,000	\$741,600	\$763,848	\$786,763	\$810,366	\$3,882,577
Utilities	<u>2,500</u>	<u>30,300</u>	<u>30,600</u>	<u>30,900</u>	<u>31,200</u>	<u>31,500</u>	<u>157,000</u>
Subtotal	62,500	750,300	772,200	794,748	817,963	841,866	4,039,577
Relocation/ Tenant Improvements		1,000,000					1,000,000
Total	\$62,500	\$1,750,300	\$772,200	\$794,748	\$817,963	\$841,866	\$5,039,577

¹ One month costs. Mr. Updike does not anticipate an overlap in rent payments for the month of June, however, Ms. Murray, noted that if the Law Library is not completely moved out by May 31, 2013, the War Memorial would charge the Law Library for the month of June.

The Law Library's rent and utility costs of up to \$750,300 in FY 2013-14 under the proposed resolution for the new lease are \$559,869, or 294% more, than the FY 2011-12 occupancy fee paid by the Law Library to the War Memorial of \$190,431 (see Table 1 above). As noted above, the Board of Supervisors previously appropriated and reserved \$1,000,000 in General Fund monies in the Department of Public Works' FY 2013-14 budget to pay for the Law Library's relocation and tenant improvement costs. The Board of Supervisors will need to appropriate up to an additional \$559,569 in General Fund monies in the Law Library's FY 2013-14 budget to pay for the estimated additional rent costs if the proposed new lease is approved.

POLICY CONSIDERATION

The Finding That the Proposed Lease for Space at 1200 Van Ness is "Suitable" and "Sufficient" is Pending Litigation

Under the proposed resolution the Board of Supervisors finds that the proposed property at 1200 Van Ness Avenue for no greater than 20,000 net square feet is "suitable" and "sufficient" for the Law Library pursuant to Charter Section 8.103.

On February 5, 2013, the Law Library filed a Writ of Mandate against the City and the City Administrator alleging that "at least 30,000 gross square feet is required for any space to be at least minimally adequate" for the Law Library. Specifically, according to the Writ of Mandate, the Law Library requests that the City should be ordered to provide space that "consists of between 30,000 and 35,000 gross square feet and that are fully operational by May 2013."

According to Mr. Andrew Shen, Deputy City Attorney, the terms "suitable" and "sufficient" are not defined in the City Charter and therefore it is up to the discretion of the Board of Supervisors to make this finding.

The Law Library currently occupies 12,816 net square feet at the War Memorial Veterans Building. The proposed lease at 1200 Van Ness Avenue would provide no more than 20,000 net

square feet for the Law Library, including approximately 15,633 net square feet on the ground floor and approximately 4,367 net square feet of additional leased space if the City exercises the right of first offer as discussed above. The 20,000 net square feet is an increase of approximately 7,184 net square feet or 56%⁵ from the Law Library's existing space of 12,816 net square feet.

According to Mr. Updike, the increase in space from 12,816 net square feet to no greater than 20,000 net square feet is necessary to accommodate the Law Library's collection and customer work space. According to a June 2012 draft report by the Controller's Office, the Law Library's existing space in the War Memorial Veterans Building does not meet six of ten American Association of Law Libraries standards, including (1) inadequate shelf space, resulting in the bulk of the Library's collection being stored on inaccessible offsite locations; and (2) inadequate work space for Law Library customers.

A report prepared for the Director of Real Estate by a consultant, Charles R. Dyer Consulting, determined that the 20,000 net square feet at 1200 Van Ness Avenue is "suitable and sufficient" based on certain conditions, including (1) equipping customer workspace with internet access, and (2) installing compacting shelving.⁶

Because the proposed resolution is a finding that no greater than 20,000 net square feet is sufficient and suitable for the Law Library in accordance with the City Charter, approval of the proposed resolution is a policy matter for the Board of Supervisors

RECOMMENDATIONS

1. Amend the proposed resolution to require Board of Supervisors approval of the finalized lease between the City and Van Ness Post Center LLC.
2. Amend the proposed resolution to require Board of Supervisors approval for any lease modification that exercises the right of first offer for additional space at 1200 Van Ness Avenue.
3. Amend page 3, line 7 of the proposed resolution to delete "up to 4 five-year options" and add "one five-year option".
4. Amend page 4, line 2 of the proposed resolution to delete "consideration" and add "approval", in order to ensure that any alternate lease to the proposed lease between the City and Van Ness Post Center LLC is subject to Board of Supervisors approval.
5. Approval of the proposed resolution, as amended, is a policy matter for the Board of Supervisors.

⁵ The City is currently negotiating with Van Ness Post Center, LLC for approximately 15,633 net square feet on the first floor of 1200 Van Ness, which is 2,817 square feet or 22% more than the 12,816 net square feet currently occupied by the Law Library at the War Memorial Veterans Building. According to Mr. Updike, the actual measurements for 1200 Van Ness will be finalized later when the lease is finalized.

⁶ Compacting shelving is shelving installed on tracks, so that the shelves can be installed without aisles between the shelves but can be moved on the tracks for access.

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Report to the City and County of San Francisco

Space Needs of the San Francisco Law Library

March 2013

**By Charles R. Dyer
Charles R. Dyer Consulting**

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I. EXECUTIVE SUMMARY

The City and County of San Francisco's Office of the City Attorney hired me, Charles R. Dyer, Consultant, to examine the space needs of the San Francisco Law Library as the City and County prepares to move the Law Library to space located at 1200 Van Ness Avenue. While both the City and County (hereinafter called the City) and the San Francisco Law Library (hereinafter called the Law Library) agree that 1200 Van Ness Avenue location is an appropriate location, they differ on the amount of space needed. The Law Library requests space of 30,000 gross square feet (SF) and the City maintains that 22,000 gross SF would be adequate.

The City's obligation to the Law Library is to provide "suitable and sufficient quarters" (San Francisco Charter Section 8.103). The Law Library's stated mission, which is in accordance with its statutory obligations, is "... to provide the judiciary, the public, the bar, and city, county, and state officials free access and use of legal reference materials in order that they may conduct their legal affairs and preserve their legal rights." (Quoted from the Law Library website at <http://www.sflawlibrary.org/index.aspx?page=8>.)

After a visual inspection and several in-person interviews, I determined that 22,000 gross SF at the 1200 Van Ness Avenue space would be "suitable and sufficient" for the Law Library to fulfill its mission, with the following conditions:

(1) The City should allow the Law Library continued use of a part of Brooks Hall, specifically the caged area currently used for storage, in order to create an offsite book depository that the Law Library can access through its own paging system.

(2) The City should prepare the facility at 1200 Van Ness Avenue to enable the Law Library to equip every user workspace to access the Law Library's online sources, as specified in the recommendations below.

(3) Compact shelving should be used as part of the shelving made available to the Law Library at the 1200 Van Ness Avenue space. Depending on the space acquired, some retrofitting may be required to upgrade floor load bearing.

(4) The Law Library should use computer-accessed legal information sources in lieu of most hard copy sources for users' basic information needs.

(5) The Law Library should begin an active weeding program to eliminate hard copy materials that are not of very high use when they are duplicated by online legal information resources.

The Law Library has some materials in book form that are rare books and some that are historical materials not commonly needed for the Library's mission to its users. The rare books do not fit into the Law Library's stated mission, even though they may retain considerable value in their physical presence. Space for the rare books would not be within the standard of providing "suitable and sufficient" space for the Law Library.

A considerable amount of materials in storage in Brooks Hall and some materials in both closed stacks and on open shelves, that one could call historical, are actually duplicated by online resources and have little value in book format. In fact, they are expensive to maintain in that form, both because of added rent costs needed to keep them and because of the staff time needed to maintain them. These materials should be weeded.

The conditions set forth above would aid the Law Library in meeting its stated mission. The Law Library must be able to alter its paradigm so that online information resources are the first

resources that most users will turn to, rather than book resources. (There are some exceptions, noted below.) The Law Library also must have flexibility in its use of space, so as to accommodate changing conditions over time. Thus, the 1200 Van Ness Avenue space should be prepared for the use of compact shelving, and the Law Library should continue to have access and use of space in Brooks Hall, as noted herein. The intent of adding the conditions is to prepare the Law Library to be able to make the adjustments needed in order to do so.

II. INTRODUCTION

A. Consultant Qualifications

I, Charles R. Dyer, principal of Charles R. Dyer Consulting, am a consultant to court systems, law libraries, and legal service providers. A short résumé is attached to this report. A longer curriculum vitae is available at my website at www.charlesrdyer.com, along with substantial other information about my work as a consultant and scholarly researcher. Pertinent to this particular project, I have had a long career as a law library director who has managed several library capital projects and have consulted on library space planning matters to other libraries. As Director of Libraries for the San Diego County Public Law Library from 1987 to 2005, I am very familiar with California county law libraries and their relationships to their respective county governments.

I am a recognized national expert, having received numerous awards for my work, including the Marian Gould Gallagher Award from the American Association of Law Libraries, the AALL's highest award representing a lifetime of services to law libraries and the law librarian profession. I am also the principal author of two pertinent books, the *Council of California County Law Librarians' Trustees Manual* (3rd edition, 1992) and the *Sourcebook for Law Library Governing Boards and Committees* (AALL Publication #45, 1994), for which I won the Connie Bolden Publication Award. I have also authored many articles and edited the *Council of California County Law Librarians' Newsletter* for ten years.

I have had extensive training in library space planning early in his career, having taken courses with nationally known experts architect Aaron Cohen and library space planning consultant Bill Sannwald. Subsequently, I have also worked with other national experts discussing the advent of newer technologies on library space planning, as well as with various architects while working on my own library's capital projects and on consultantships.

B. Review of the Situation

I was hired by City Attorney of the City and County of San Francisco on February 11, 2013, as an expert consultant in assessing the suitability of utilizing the space at 1200 Van Ness Avenue for the San Francisco Law Library.

1. Trip to San Francisco, Visual Inspections, and Interviews

I visited San Francisco on February 11-13, 2013, and made a visual inspection of the various sites involved in the matter, including two visits to the current space occupied by the Law Library in the War Memorial Building, a visit to the space occupied by the Library's materials in storage in Brooks Hall, a visit to the proposed site at 1200 Van Ness Avenue, and a visit to the San Francisco Public Library. I interviewed or discussed the matter with the following people while in San Francisco:

- Andrew Shen, Deputy City Attorney, City and County of San Francisco
- John Updike, Director of Real Estate, City and County of San Francisco
- Naomi M. Kelly, City Administrator, City and County of San Francisco
- Luis Herrera, City Librarian, San Francisco Public Library
- Roberto Lombardi, Facilities Director, San Francisco Public Library
- Derrick Chang, One Kearny LLC (representing the owner of 1200 Van Ness Avenue)
- Tom Christian, Cassidy Turley (broker for 1200 Van Ness Avenue)

2. Review of Materials

I reviewed such materials as Mr. Shen and Mr. Updike had available, including space layouts for the current Law Library (supplied by the War Memorial building manager), which aided greatly when walking through the site. The current site consists of several rooms on the fourth floor of the War Memorial Building, some of which are closed to the public and some of which are closed except when used for seminars or classes or rented to attorneys for conferences or depositions.

Especially helpful was the San Francisco Office of the Controller - City Services Auditor draft report titled "Review of Options for Sizing and Location of the San Francisco Law Library", which will be discussed at length below.

I made a visual inspection of the current Law Library book collection that is available to the public and the materials kept in closed stacks at the War Memorial Building. I also observed the available user seating and public computer terminals and most of the staff space (with the exception of the offices of the Law Librarian and the Assistant Law Librarian).

I also examined the San Francisco Law Library's website, found at <http://www.sflawlibrary.org>. From it I was able to garner such information as the Law Library's policies toward different classes of users, general statements about the collection and online database access, and additional information about the history of the Law Library. I was also able to access the online catalog.

I was also able to look at some of the books that are stored in Brooks Hall. All the books are boxed in moving boxes or occasionally in crates or similar items that were substituted for moving boxes. In general, they are not labeled as to contents. There are essentially two different groups of these books. The first consists of books that were likely first moved to the storage facility on one large batch. These sit within a caged area and are so tightly packed in that it is impossible to look into any but the first few boxes by the cage door without moving the boxes themselves to make a path. The second group of boxes are those that are lined along the outside of various fence runs within Brooks Hall. Although piled four high with about fifteen boxes per pallet, and sometimes two pallets deep, they are generally accessible at least to the extent that I was able to determine much of the contents.

The Law Library contends that there are 160,000 volumes stored at Brooks Hall. A quick visual estimate of the materials located there supports that claim as a reasonable estimate. The Law Library has an old card catalog and accession lists for these materials, so presumably the Library can state which volumes are stored in Brooks Hall in the aggregate, although one cannot locate any particular volume in Brooks Hall due to their storage in unmarked boxes. I did not conduct a thorough study of the card catalog or the accession lists.

I did not have a chance to visit the facility housing the San Francisco Law Library's rare books. The Law Library states that it has 11,000 rare books, which were stored in a climate-

controlled warehouse in 1995, consisting of "volumes of significant international and scholarly importance dating back to the 15th century." (Marjorie Dorfman, "The San Francisco Law Library: A Noble Perspective," Plaintiff (Nov. 2008) at 2, available on the Law Library's website at <http://www.sflawlibrary.org/Modules/ShowDocument.aspx?documentid=33>.) A large portion of the collection consists of "medieval English law practice materials." The facility is located in Oyster Point.

3. Failure of Cooperation from the San Francisco Law Library

After the San Francisco Law Library filed suit against the City and County of San Francisco prior to my arrival, the staff and trustees of the Library refused to cooperate with my investigation. They did not provide documents that I requested, nor were they available for interview. They did not bar access to any areas or try to obstruct my work. This was most unfortunate, as my report is of necessity based on the mission and uses of the Law Library with regard to its space needs. Without clarification from the staff and trustees, I was required to base my recommendations on a combination of industry standards and reasonable foresight as to the interplay between various methods of access to information. In particular, I would have liked to have learned of the Law Library's plans for future collection development and technological development and its assumptions regarding its missions to various users and to various uses. (I gleaned what information I could on these topics from the Law Library's website.)

III. FINDINGS

These are my eight specific findings. These were garnered from the information I obtained. My recommendations at the end of this report are based on these findings.

A. Amount of space is the most important issue.

Both parties agree that the proposed location for the Law Library at 1200 Van Ness Avenue is appropriate. The main contention is over the amount of space to be leased for the Law Library, with the San Francisco Law Library Board of Trustees preferring 30,000 gross square feet (SF) and the City and County of San Francisco Real Estate Division preferring 22,000 gross SF.

DISCUSSION: The proper standard to be employed for resolving this issue is "suitable and sufficient quarters", which is the statutory obligation of the City stated in the San Francisco Charter. As both parties recognize that the 1200 Van Ness Avenue site is suitable, then the issue is narrowed down to whether it is sufficient. (In order to be sufficient, certain conditions must be met, as noted below, so that the space at 1200 Van Ness Avenue is suitable when used as I prescribe.)

FINDING: (1) With proper consideration for the mission of the Law Library, the space recommendation proposed by the Real Estate Division can be sufficient to meet the standard. I recommend some changes, either in the space rented or the retrofit needed. Given that additional space at 1200 Van Ness Avenue would greatly increase the City's long-term expense for the provision of these quarters, then it behooves all parties to agree with the Real Estate Division's recommendation, with the following proviso: Since the Law Library's mission statement does not encompass all of the historical roles that the Law Library has played and may desire to continue to play, the Law Library should be allowed to continue to use Brooks Hall to locate materials, as outlined in later discussion.

B. The Space must be suitable.

This report makes a series of recommendations to the Law Library regarding its collection development and use of online services, and it is on the basis of these recommendations that the main finding about the amount of space needed is sufficient. In order for these recommendations to come about, the City must be prepared to provide such tenant improvements as to make this space suitable.

DISCUSSION: It is not my task as Consultant to come up with a specific plan for all of the interior design for the space at 1200 Van Ness Avenue. It is presumed that the City will desire to make the space amenable and respectable for the use intended. Rather, the findings made here just list a few items that must be a part of the planning, so as to enable the Law Library to operate to make the amount of space recommended suitable for its use.

FINDINGS: (2) The Law Library should be provided with high speed Internet access in sufficient quantity (such as T-1 or higher, perhaps on fiber optic) that it can serve its customers, especially as this report assumes that the Law Library's space needs are reduced because of its conversion of its collection development policy to emphasize a much greater use of computer-accessed legal research materials. (A considerable amount of legal materials online are now found in scanned PDF versions that require high throughput in order to load at a decent rate. Users should not have to wait for items to load.)

(3) The Law Library should be provided with a high speed wifi system throughout its 1200 Van Ness Avenue facility, enabling it to allow users to access its databases from their own laptops that they may bring it, as well as enabling the Law Library to lend laptops to users for in-house use, in addition to its other computer terminals.

(4) The Law Library should be provided with sufficient electrical outlets that nearly every workspace has it. Accordingly, it should be assumed that there be sufficient HVAC capacity to accommodate a law library with a very large number of computers and printers running at peak loads. Since the space was previously used as a Circuit City outlet, it is hoped that upgrades in this respect may not be required, but this capacity must be confirmed.

(5) It is recommended that some parts of the Law Library's collection be located on compact shelving, which would require reinforcement of some floor loads up to 300 pounds per square foot. The recommended areas are noted later in this report.

C. The Law Library should make appropriate collection development and online services decisions to enable its mission to be performed in the space made available.

Although this report is meant primarily as a decision-making tool for the City, it presumes that the Law Library would make such adjustments as are noted herein. The City should not be required to maintain additional space for the Law Library because the Law Library fails to make such adjustments. A significant amount of this report states the reasoning behind these adjustments.

DISCUSSION: Unlike other public law libraries, the Law Library has not had a significant weeding policy for a very long time. In the first half of the 20th Century, some larger public law libraries assumed that their collection development model was somewhat similar to that of a large academic law library, maintaining a great historical collection and consuming an ever growing physical plant. The San Francisco Law Library followed that model. Beginning about 1910, law publishing slowly changed, with a growing emphasis on practitioner-oriented materials, which tended to be more expensive and also had a shorter valid shelf life. Except for the very well-funded law libraries, such as the Law Library of Congress and the Los Angeles County Law Library, most public law libraries eventually began acting more like regular public libraries and started weeding their collections. Like other public law libraries, the Law Library did alter its purchasing practice, emphasizing practitioner-oriented materials, but it held on to its large historical collection, even as it ran out of space.

FINDING: (6) Other comparable law libraries have been weeding for years. The Law Library should have as well. As more and more historical materials have been duplicated by online databases, the comparable law libraries stepped up their weeding so as to continue to make space for more modern books and computers without requiring dramatic increases in space. The Law Library should have been doing the same.

DISCUSSION: The expansion of coverage by the commercial legal database vendors, and more recently by governments and grant-funded digitization projects, and even more recently by the advent of such access points as Google Scholar, has changed the nature of the game. No longer do modern public law libraries need to purchase and retain law books and materials on a "just in case" basis. Now, as with modern manufacturing, a "just in time" basis can be had. Instead of purchasing a book, one can call for a piece of information instantly, through online services. Book purchasing, and the resultant demand for space, should be done only when it is advantageous to do so, and that is becoming less and less often, as explained below.

Computer-accessed legal research is the new paradigm. There remains a dwindling place for law books, and users will expect to start their research online. The exception to this for the next few years are those litigants representing themselves in court (called pro per litigants in California), who need self-help books to help them get started with their litigation. Eventually, even these users will expect such books to be served in some sort of e-book fashion, or through websites such as the California Courts' Online Self-Help Center at <http://www.courts.ca.gov/selfhelp.htm?genpubtab> or LawHelp California at <http://lawhelpca.org>.

FINDINGS: (7) The Law Library needs to recognize that the nature of doing legal research is forever changed. It needs to adjust its public services and collection development policies, as discussed in greater detail later in this report.

(8) The Law Library already has subscriptions and terminals for most of the relevant legal databases. Their issue is to provide more ability to serve more customers with online services and to train them to do so.

The remainder of this report details the considerations taken in reaching these findings and my recommendations.

IV. STATUTORY OBLIGATIONS OF THE CITY AND COUNTY; OTHER STANDARDS

The San Francisco Law Library was the first of the California county law libraries. It was created by legislative enactment of the California Legislature in 1870, with further elaboration in Charter Section 8.103 of the City and County of San Francisco. The Law Library was created as a special district government, but the City was charged with housing the Law Library and providing certain basic services. The pattern set by the San Francisco Law Library was then followed for other California county law libraries when a general enabling statute was enacted in 1891. Many of the provisions of the general law also control the San Francisco Law Library and the City, except when in conflict with a direct provision of the 1870 statute, which is essentially reiterated in Section 8.103 of the San Francisco Charter. For our purposes, the relevant provisions are contained in the 1870 statute and Charter Section 8.103.

This unusual arrangement has a historical basis. In 1865, a group of lawyers had created the San Francisco Law Library Association in order to create a membership library and thus pool their resources. They soon realized that they could not keep up with the costs and maintenance of this new library and went to the Legislature to add a fee to civil court cases to further finance the new law library. In the bargain, the San Francisco Law Library became a public entity and had to open its doors to the public, but it was created as a special district government in order to preserve some of the Law Library Association's control of the organization.

A. State Statutes and Charter Section

1. Act of the Legislature, March 9, 1870

The relevant section of the Act of the California Legislature, March 9, 1870, is Section 8:

"Sec. 8. The City and County of San Francisco is hereby authorized and required to provide, fit up and furnish, and provide with fuel, lights, stationery and all necessary conveniences and care, rooms convenient and accessible to the Courts, sufficient for the use and accommodation of said law library and those who have occasion for its use. And the Board of Supervisors of the City and County of San Francisco are hereby authorized, empowered and required to appropriate, allow and order paid out of the General Fund such sums as may be necessary for the purposes aforesaid; all sums lawfully appropriated and expended under the provisions of this section shall be paid out of the General Fund, on demands duly audited in the mode prescribed by law for auditing other demands of similar character on the treasury."

2. San Francisco Charter Section 8.103

San Francisco Charter Section 8.103 reads as follows:

"The San Francisco Law Library shall be under the management and control of the Board of Trustees, as established by act of the Legislature approved March 9, 1870. The Board shall consist of seven appointive members of the San Francisco bar, and the Mayor, the Presiding Judge and the three judges of the Appellate Department of the Superior Court, ex officio. All vacancies on the Board shall be filled by the Board.

"Pursuant to state law, the Board shall appoint and at its pleasure may remove a librarian, who shall be its executive officer. The Board shall have complete authority to manage its affairs consistent with this Charter and state law.

"Compensation of Law Library personnel shall be fixed by the executive officer of the Law Library, with approval of the Board of Trustees. Subject to the budgetary and fiscal provisions of this Charter, the City and County shall continue to fund the salaries for at least the positions of Librarian, Assistant Librarian and Bookbinder.

"The City and County shall provide suitable and sufficient quarters for the Law Library, fix up and furnish the same and provide for the supply of necessary light, heat, stationery and other conveniences. The Library shall be so located as to be readily accessible to the judges and officers of the courts.

"The Clerks of the Superior and Municipal Courts shall collect fees provided for law libraries by general law and the fees so collected shall be paid monthly to the Treasurer of the Law Library, and shall constitute a law library fund to be expended by the Trustees in the purchase of books and periodicals, and in the establishment and maintenance of the Law Library.

"The judiciary, City, County and state officials, members of the Bar, and all inhabitants of the City and County shall have free access, use and enjoyment of the Law Library, subject to the rules and regulations of the Trustees." This provision was found at the City's online code.

http://www.amlegal.com/nxt/gateway.dll/California/charter_sf

3. Relevant Standard

The relevant standard, from San Francisco Charter Section 8.103 is: "The City and County shall provide *suitable and sufficient* quarters for the Law Library, fix up and furnish the same and provide for the supply of necessary light, heat, stationery and other conveniences. The Library shall be so located as to be readily accessible to the judges and officers of the courts." (Emphasis added.)

B. National Standards

The American Association of Law Libraries published the current County Public Law Library Standards in April 2009, available at <http://www.aallnet.org/sis/sccll/toolkit/standards.htm>. The Controller's Draft Report made significant use of these standards in its assessment of the situation for the Law Library. Rather than repeat its work, this report will address those issues that the Controller noted as problematic for the Law Library.

V. MISSION AND USES OF THE LAW LIBRARY

"It is the mission of the San Francisco Law Library to provide the judiciary, the public, the bar, and city, county, and state officials free access and use of legal reference materials in order that they may conduct their legal affairs and preserve their legal rights." (Quoted from the San Francisco Law Library website, <http://www.sflawlibrary.org/index.aspx?page=8>.)

The Law Library's mission lists both its user base and the purposes it serves. These are reviewed below in order to understand its programmatic needs and thus its space needs. The mission as defined is a logical one that comports with the Library's statutory duties.

A. Clientele Served

As noted below, the order of listing in the mission does not indicate a priority among the users, as it appears that the most primary users, in the minds of the Law Library Board and staff, seem to be attorneys, and the least among those listed are members of the public.

1. Members of the Legal Community

The Law Library, from its very start, has had a long history of serving the local bar. The Library extends borrowing privileges to members of the State Bar in good standing with offices or residence in San Francisco. Included within that provision are the attorneys' employees who might visit the Library on behalf of the attorney.

Evidently, for an annual fee law firms may join the Law Firms Premium Service Program, which enables the law firm to receive many items distributed through the Library's documents delivery service for free, such as faxes of materials not allowed to circulate and PDF's of legal periodicals available in HeinOnline. The Library does not charge the annual fee for this service to law firms with under nine lawyers.

Judges of state and federal courts within San Francisco have borrowing privileges, as do authorized representatives from municipal, state, and federal agencies in San Francisco.

2. Pro Per Litigants, General Business Users

Litigants who represent themselves in court (pro per litigants) and members of the general public are allowed to use the Law Library in-house, but do not have borrowing privileges.

It appears that the Library lends out reserve materials to pro per litigants for in-house use only, probably by asking users to leave their driver's license at the circulation desk. There are few self-help books on the open stacks, but several of the most popular titles reside behind the Reference Desk. (This is one of the items for which we could not obtain complete information due to the lack of cooperation from the library staff. It is not mentioned on the Library's website.)

The San Francisco Public Library's Main Library has a good collection of self-help books, especially those written specifically for California by Nolo Press. It may be that the Law Library directs users to the San Francisco Public Library for such sources, especially if they wish to check them out.

Another class of regular user at county law libraries is the general business user. They are typically interested in such items as building codes and tax forms. There seemed to be no special provisions at the Library for such users. The Library does maintain older building codes in closed stacks. (Older codes are also sometimes needed for litigation. Tax forms are now generally available for free online.)

3. Other Users

These users are not within the primary mission of the Law Library and, therefore, are less of a priority for space planning purposes.

a. Students

Most county law libraries have some student use. The major amount are students taking paralegal courses or undergraduate business law classes. These are not necessarily primary users for the Law Library, as they are barely mentioned on the website. Most other county law libraries also do not consider them as primary users. However, the Library does give tours for classes of students. One can also presume that students take some of the short classes and seminars held by the Law Library.

b. Historians and Genealogists

The Law Library should not focus their resources on providing services to historians and genealogists. As noted elsewhere, they may well be served better at other libraries in San Francisco. This is significant, since many of the materials that are presently in storage would most likely be of more use to genealogists and historians than to those who are preparing for litigation or otherwise dealing with current affairs.

c. General Interest

The Law Library does not cater to readers who might have only a general interest in law. Although there are many fictional works written with legal themes, the Law Library does not collect them. Space should not be provided for them.

B. Purposes for Maintaining the Library

According to the Library's stated mission, the purpose of using the legal reference materials to conduct one's legal affairs and preserve one's legal rights is paramount. There are, for instance, rules against using the Law Library for purposes that are legitimate uses at public libraries, such as use of computers for general Internet searching, reading or composing email, or composing non-legal written materials.

1. Primary Functions

Generally, there are four separate functions that the Law Library performs in order to aid its users in their primary purpose of using legal reference materials to conduct their legal affairs and preserve their legal rights.

a. Access to Legal Information Needed to Go to Court

The most obvious function is to provide support to users who need information in order to prepare to go court or otherwise to conclude litigation, such as reaching a settlement. The Library's collection efforts reflect this goal, especially with regard to those items that are currently on the open stacks and to the databases the Library maintains on its public computers. For space planning and usage purposes, it is vital that users have access to the law that is currently in effect.

Primary sources of law, i.e., statutes, ordinances, regulations, case law, and administrative rulings, are unusual sources of information in that their very words themselves represent the law itself. Except for case law and uncodified statutory law, all the primary sources have some method of updating themselves to the current state, so that an individual does not have to look to many places within a set to see the exact source as written. Case law, on the other hand, is published as a succession of chronologically arranged appellate court opinions. The most recent cases on point are the ones usually sought, although reference to a landmark case is often common. (In a school segregation case, one would routinely cite the landmark 1954 case *Brown v. Board of Education* before citing current cases that are relevant, but one would not ordinarily cite cases following the law prior to *Brown*.)

What is notable with regard to space planning is that nearly all the primary sources of law that would be needed for a court case in the City are available online through sources already available to users at the Law Library. (The Library's website notes that it has "free use of Westlaw, Lexis, CEB Onlaw, Fastcase, HeinOnline, Dissomaster, and Essential Forms. Other resources include online legal links and forms.") The rare exceptions would be some foreign law materials (for

example, child custody cases involving a parent who lives in Mexico), and, in some narrow circumstances, older sets of codified statutes (primarily for three-strike cases and estate cases) and older building codes (for construction negligence cases). These materials not available online would be used only rarely.

Secondary sources are those sources of law that are similar to the publications found in most other professional libraries, such as medical libraries, i.e., treatises (commonly known as books) and periodicals (commonly known as journals and magazines). The need for currency is reflected in use patterns here as well. In fact, older books and periodical articles are rarely cited in court, as it is assumed that much of what they contain has been altered or overturned by later statutes, regulations, and case law. Occasionally, someone may cite an old work, but mostly to show that the law is not much different in the modern items also cited.

With regard to space planning, these sources are also becoming available online. With regard to treatises, those that are out-of-date, especially those aimed at practicing lawyers (practitioner-oriented) or the lay public (self-help), can be harmful if left on the open stacks, since untrained users may well rely on old law that is no longer current. The Law Library prefers to collect practitioner-oriented treatises, rather than academic-oriented scholarly treatises that are more theoretical and less practical, as it should do, given the mission.

With regard to legal periodicals, newsletters oriented toward the practice of law, of which the Law Library collects very few, are out of date very quickly. Law journals, most of which are edited by law students at law schools, with lead articles written mostly by law professors, however, have a much longer shelf life. Since they, like court opinions, are published in chronological order, it is difficult to weed out those articles that no longer represent valid law. It should also be recognized that the more theoretical take on law presented in most law journals remains more useful longer than the relatively few articles devoted to more practical, current legal news. However, these law reviews are now mostly available online as well, with online subscriptions that the Law Library currently carries, such as HeinOnline.

b. Access to Legal information Needed to Conduct Business

As noted before, and certainly within the Library's mission, the Library collects some materials that are not always or even commonly used for appearances in court. Building codes are among the most common, but the use is small, as the City provides the codes online and provides considerable aid at the Department of Building Inspection. As noted above, out-of-date codes are sometimes used in litigation, and the City does not maintain access to those codes online. Most other materials for conducting business can also likely be found at the San Francisco Public Library or at the relevant City department.

Tax forms used to be a mainstay of service by California county law libraries, but now nearly all tax forms are available online, including older forms that cover prior tax years still within the statute of limitations.

The Law Library does not collect business materials that are not law-related, such as corporate bond ratings manuals. It does collect materials on the business side of the practice of law.

c. Reference Function

A very significant and underappreciated aspect of public law libraries is the reference function. The notion that people can find most legal information on the Internet belies the fact that

most of the population is not skilled in discerning good material from misinformation and not experienced in recognizing out of date material. But further than that, most people are simply so unacquainted with law research that they do not even know much of what to look for. As the description of materials just above shows, the ability to discern and use law materials properly must be learned through formal training and followed by significant years of experience. Reference librarians at public libraries recognize their own shortcomings with regard to legal reference and are more than pleased to refer users to public law libraries when reference questions go beyond what they can handle.

During the years that computerized legal research was first coming aboard, law reference librarians found themselves additionally required to teach computer literacy skills. This made many of them loathe to rely as extensively on online legal research as they might have because of the staff time costs. It was simply easier to direct a user to a book. Now, however, computer literacy is not nearly the problem it had been before. Most of the younger generation are actually more at ease using a computer for research than using book methods. Older citizens have slowly gained the skills as well, although there are some who remain obstinate against learning them. Furthermore, the advent of smart phones has led many of our poorer citizens into the Internet age. The demand for computer use at public libraries is huge and now represents a substantial portion of the research capabilities of those institutions.

Legal research in books required special training for users, in order to understand digests, headnotes, citation-checking, and using updating materials, such as pocket parts. When using computers to do legal research, additional training may also be required, since computers require more skill at self-indexing, i.e., thinking up the proper keyword, rather than trying to discern what the editor of a digest may call the topic. As quoted on the Law Library web page about databases, "The Law Library reference staff is available to assist in helping to start or direct a search... ." (<http://www.sflawlibrary.org/index.aspx?page=5>.) As users come to depend more and more on computer-assisted legal research, reference librarians are adjusting their use of time to devote more toward helping users with computer searches.

It should be noted that legal research database publishers are also now incorporating into their search engines interfaces that are similar to those that members of the public are used to. Westlaw and Lexis both have searches that look and work similar to those one would find on Google or Bing. Many government and legal service provider web sites also incorporate Google search technology or similar brands into their search mechanisms.

Over time, these factors will continue to reduce the need for the lengthier reference transactions that law librarians have had to perform in the past with respect to computerized legal research.

d. Teaching Role

In the last thirty years, there has been a very good trend in public law libraries toward organizing more teaching situations for users. While first directed mostly toward members of the bar, it became apparent that the greatest utility could be found in teaching pro per litigants. Initially, the role was limited to teaching the basics of legal research. By teaching in classes, reference librarians found that they could train several people at once and that they could prepare course outlines and materials that made sure that the users would carry more information with

them as they went about their research. This greatly reduced the time necessary for individual reference.

Several California county law libraries also began teaching other classes to pro per litigants, starting with classes in civil court procedure, especially pre-trial procedure. Eventually, the classes were expanded into those substantive areas that have large number of pro per litigants, such as family law, landlord-tenant law, and immigration law. Some libraries, and the San Francisco Law Library is one of them, have also used members of the bar to teach these classes. (Attorneys do this as part of their pro bono work; and in rare instances they may pick up a case when the litigant decides his case would be too difficult for him to manage himself.)

Courses in substantive areas are useful, as opposed to having the user read a book, in that they help give an overview and are geared toward the local situation. Also, some users learn better through such presentations, or become better prepared to read the books they will then read.

The Law Library also holds classes for attorneys, which are attended by students, law firm staff, and even some pro per litigants. Since imparting information is the role of a public law library, these classes are well within the library's mission, especially as they reduce the number of reference questions later.

2. Potential Secondary Functions

There are other roles that are sometimes carried out by public law libraries. As these functions are not ones that would fit into the mission of the Law Library, as stated on its website, these are herein referred to as secondary functions. This is not to suggest that these secondary functions should not be performed at all, since the Law Library Board may currently recognize these functions as part of the Library's total work, in spite of their not being listed as part of the Library's mission. Rather this categorization is used herein in order to place a perspective as to what role the City should play in providing space for these functions, and perhaps in aiding alternative methods for handling these functions.

a. Archival Role

It appears that the Law Library considers itself as tasked with a certain amount of role as an archives. Given that access to archival and rare book collections were not made available to me as Consultant to the City, I will limit my remarks to that which seems reasonable to conjecture.

Evidently, the Law Library lost most of its volumes in the fire that resulted from the 1906 San Francisco Earthquake. This is significant in that it is likely that the Law Library does not have any archival materials that are unique. If it does, then those possibilities are now examined.

The archival role for the Law Library might be to maintain any legal materials that mark the beginnings and history of the City itself and of the State of California, insofar as materials came into its possession. Presumably, since the San Francisco Law Library was one of the first official law libraries in the State, and San Francisco was the State's largest city back then, much good archival material may well have been deposited there, but that would have been prior to 1906.

Presumably, the size of the archival resources in this regard are not large, although some would likely duplicate the archival collection maintained by the San Francisco Public Library. One question to consider is whether researchers would seek to use these materials at the Law Library.

With regard to research into the history of the City, a researcher would be better off

working at the San Francisco Public Library, wherein the collection would be much more extensive, since it is the official archives for the City.

With regard to State of California archival material, the California State Archives and the State Library in Sacramento fill the role of official archives. A researcher would do better to access those materials there as well.

In short, as this function is not part of the Library's mission, such materials that it may wish to maintain should be very conservative at best, not enough to create a need for substantial space. Should the Library desire to maintain such a collection, then I believe that it should be placed in compact shelving so as to reduce floor space needed, or off site.

b. Historical Collection Role

Once again, as perhaps the largest law library collection in the early years of the State of California, the San Francisco Law Library may have collected many volumes that were utilized by the bench and bar during the Nineteenth Century. But most of those were lost in the 1906 Earthquake Fire.

Quoting from an article reprinted on the Library's website: "Within a year of the Great Earthquake and Fire, and under the tireless leadership of James H. Deering and the San Francisco Law Library's board of trustees, the law library's collection grew from nearly nothing to 7,580 volumes. ... Many of the books were generous donations from private collections and law libraries all over the country. By the time the law library moved into the newly constructed City Hall in 1914, the collection had grown to an amazing 37,720 volumes!" (Marjorie Dorfman, "The San Francisco Law Library: A Noble Perspective," Plaintiff (Nov. 2008) at 2, available on the Library's website at <http://www.sflawlibrary.org/Modules/ShowDocument.aspx?documentid=33>.)

However, outdated primary sources, mostly statutory law and court opinions, are nearly never used by current practitioners. Those resources that are not re-published as online documents are the least likely to be needed in court these days. Research in these materials would be mostly of an academic nature, made by those wishing to delve into the ancient history of law's development. As such, there is little need for adjacency to the courts and little need for speed in retrieval. The most useful products for historical perspective are also finding their way into online versions, since these volumes are now out of copyright and easily scanned into products, most of which are free on the web.

These books also carry little or no value unto themselves as books. Resale value is practically nil, and mostly only those in very good condition are used as background for movies, stage plays, and similar uses. As noted below, I recommend that books maintained for their historical significance should be kept off site at Brooks Hall.

c. Rare Books

The Law Library has a rare books collection, evidently numbering about 11,000 volumes. Nearly all of these were purchases or gifts to the Law Library during the period 1906 to 1940, mostly by renowned librarian James H. Deering or his assistant and successor Robert Owens. Much of the impetus was to collect again many of these books that had been lost in the 1906 Earthquake and Fire.

Evidently, these books have been evaluated and are now cared for in the off site facility at Oyster Point. Rare books have a value in and of themselves as physical items, not just for the

information they contain. However, the rare books collection does not come under the primary mission of the Law Library. If they are to be retained, then off site storage may well be the right solution.

There are three reasonable alternatives to continuing off site storage:

- The collection could be sold, either in mass or as separate items over time. The Law Library would reap a substantial amount of revenue from such a sale, and the books would then be back in circulation among people who would appreciate their worth.
- The collection could be given to or permanently loaned to another library that can maintain them adequately, such as an academic law library that already has facilities for a rare book room.
- The Law Library Board of Trustees could seek private funding to establish a rare books room at the Law Library's Main Library or at another location.

This last alternative needs a bit of explanation. Among the several public law libraries, bar association law libraries, and membership-subscription law libraries in the country, several actively maintain a substantial charitable fund raising operation, either as a separate foundation or as a part of their regular operations (most typical among membership-subscription law libraries). With non-public revenues, these libraries are able to commit to purposes beyond the libraries' primary mission, often in ways that enhance the prestige of the library and provide ancillary services or serve an ancillary aesthetic, such as maintaining a rare book collection. (One of the benchmark law libraries used in the Controller's Report, the San Diego County Public Law Library, has had such an operation, having maintained a separate affiliated charitable foundation since 1958. In addition to creating special book acquisitions funds, its Law Library Justice Foundation of San Diego County has also financed a lecture series, given scholarships to law students and awards for articles on legal history, and awarded grants promoting anti-discrimination efforts. The San Diego County Public Law Library has also been able to entice a very substantial amount of capital funding through this endeavor.)

Also, there are foundations and other charitably-giving organizations from whom one or more grants could be sought to help sustain the rare books collection.

VI. RECENT HISTORY

A. Early History

This history is recreated from publicly available information and some anecdotal remembrance. Unfortunately, I could not verify this information with current Law Library staff.

The Law Library was housed in several rooms on the fourth floor of the San Francisco City Hall until 1995. City Hall was built after the San Francisco Earthquake of 1906. From conversations with John Updike, it appears that the total assignable space allotted to the Law Library in City Hall was approximately 14,000 SF. City Hall has very tall ceilings, which was part of the pattern for building back then. In order to accommodate the increasing size of the collection, the Law Library began putting book stacks on top of existing book stacks, thus creating very tall stacks some 12 to 14 shelves high. Ladders were needed to reach the upper material. Users had to ask the librarians to retrieve the books, since there was no insurance coverage for users doing so themselves.

Thus, for many years before the Library moved out of City Hall, it had already begun to separate heavily used volumes from older, rarely used volumes. Unfortunately, the practice had begun before building codes reflected seismic principles, and these stacks were not braced. Had

such principles been in place, either the double-tiered stacks would not have been allowed or, more likely, they would have been braced top and bottom and across the middle would have been braced metal flooring. (That feature was common in many older libraries.)

During the 1989 Loma Prieta Earthquake, most of the book stacks fell over. Fortunately, the Library was closed, or there could have been serious injuries to users or personnel in the stack areas. Although some volumes were lost, the Law Library recovered rather quickly and was open for business in a short time.

In 1995, however, the Law Library was moved out of City Hall into the War Memorial, while the City conducted a seismic retrofit of City Hall.

B. Subsequent to the 1995 Move to the War Memorial

When the Law Library was moved to the War Memorial, it was thought that the move would be temporary, for perhaps a couple of years. Since the collection was too large to fit into the new space, especially since the Law Library would no longer be allowed to use double-high stacks, a very significant number of volumes were placed in moving boxes and sent to Brooks Hall. Brooks Hall is a former convention exhibit space that is underground, underneath the park between City Hall and the San Francisco Public Library. It is accessible both from the Public Library and through a large ramp originally built to accommodate trucks delivering exhibits. Some 160,000 volumes currently reside there, most having arrived in 1995. The boxes are not marked as to contents, so they are effectively not searchable if one sought to retrieve a particular volume. The Law Library maintains an old card catalog and old accession records, which would list any items not found in the Library's online catalog. So, presumably, the Library could describe the collection in Brooks Hall, but cannot locate individual volumes.

1. Current Use of War Memorial Space

The space in the War Memorial was set up to keep a collection that could serve most needs for those going to court. Over time, some parts were re-purposed, as the Library added computer terminals, a computer training room, and seminar space. If some of those spaces once held books, then likely they were sent to Brooks Hall. The Law Library currently has about 7,266 linear feet of shelving available in open stacks in the main reading room, which, if packed tight, could hold up to 51,000 volumes. There are also some books and materials behind the circulation desk, which acts as its reserve collection.

The Law Library also keeps a significant amount of books in closed stacks in its "Annex", which is another room on the same floor. The linear feet of shelving in the Annex is about 30-40 percent of that available in the main reading room. Most of the materials in the Annex are non-current materials, some of which may be useful in litigation, such as older volumes of the Code of Federal Regulations.

Including the materials in the Annex and other closed stacks, the total linear feet of shelving is 11,100, which is enough to hold 77,000 volumes, if packed tight.

The Library was able to gain additional space in the War Memorial in 2009, much of which is now being used for holdings seminars and conferences. Currently, the Law library occupies 12,816 SF of net assignable space and 15,281 SF of gross space at the War Memorial. (Gross space is inexact, since hallways and facilities such as restrooms are shared with other agencies on the fourth floor.)

See map of the current space as attachments at the end of this report.

C. Controller's Draft Report on the Law Library

In June 2010, the San Francisco Office of the Controller - City Services Auditor created a draft report titled "Review of Options for Sizing and Location of the San Francisco Law Library". The report started with an examination of the physical requirements for the Law Library as expressed in standards established by the American Association of Law Libraries, noting that the current location does not meet six of the ten standards that the analysts chose to examine because they were relevant to the Library's physical space. The problems noted were:

- The Library is not located in or adjacent to county court buildings.
- Adequate shelf space is not provided for in the Library's current location, resulting in the bulk of the Library's collection being stored on inaccessible offsite locations.
- The Library's current location does not provide adequate environmental controls.
- New space for staff has been added, but modern workspace for customers is lacking.
- Lighting and temperature control is not adequate [due] to presence of large glass skylights and other facility issues.
- Library lacks adequate security system to protect the collection; the building provides security for staff and customers.

(Quoted from table on page 6.)

Each of these issues will be addressed in the recommendations.

The report concluded that the AALL standards could be met if the City provided the Law Library a facility of about 35,000 square feet, provided that the Law Library followed the path of three of its sister California county law libraries and significantly weeded its collection.

The purpose of hiring me as Consultant was to provide the City with a more nuanced examination of the situation, employing my knowledge and experience to judge whether the Controller's Draft Report was correct and reasonable and also to determine whether there might be ways to reduce the size needed for the Law Library further than that Report states.

The balance of this section of this report will look at the Controller's Draft Report.

1. Benchmark Law Libraries: San Diego and Alameda

Most of the Report was essentially an examination of the Law Library's collection size and budget in comparison with other California county law libraries. It used two as benchmarks: The San Diego County Public Law Library (also now known as the San Diego Law Library) and the Bernard E. Witkin Law Library of Alameda County. Here is a comparison of these libraries, using the *California Library Statistics 2012* (for the Fiscal year 2010-2011), the latest statistics available:

Library	Population	Attorneys	Filing Fee Income
Alameda	1,517,756	6,723	\$1,953,470
San Diego	3,115,810	14,439	\$3,852,274
San Francisco	808,768	18,835	\$1,475,768

As can be seen from this chart, the two libraries are larger in terms of income and population served. Please note that the income observed is filing fee revenue, as that revenue is the closest match to actual funding available for ordinary library operations. The City provided an additional appropriation to the San Francisco Law Library of \$587,678 that year. Less than \$200,000 was for rent for the space in the War Memorial, and much or all of the rest was for the salaries for three positions in the library that the City is required to provide. The San Diego County Law Library does not pay any rent at all. (There is internal accounting for its building costs within San Diego County, but it is not part of the budget of that library.) Only the Alameda County Law Library actually has a nearly equivalent amount of operations budget. No other county in California is required to pay for salaries for law library staff, although most of the smaller counties do provide what staffing there is at their county law libraries.

Benchmarking volume count, while providing a simple ballpark analysis, misses the point of providing sufficient access to legal information when online access is added to the picture. Online subscriptions and Internet access provide, as noted above, a huge array of legal resources.

One statistic from this table bears further examination: the number of attorneys in San Francisco is disproportionately large. The attorney population in San Francisco is increased substantially by the number of attorneys serving major businesses, as San Francisco is a major financial and business center when compared to the other counties. At one time, the number of attorneys was more significant with regard to the number of users the Law Library needed to serve during peak periods. However, with the advent of low-cost subscriptions for individual attorneys to such legal research databases as Lexis and Westlaw in the late 1990's, the number of attorney users in county law libraries in California dropped significantly, often by a factor of ten. (An attorney who might have previously visited a law library ten times a month would now do so about once a month.) Also, many of these additional attorneys in San Francisco are transactional attorneys who do not litigate and who do legal research less frequently and usually in materials they have on hand in their own firm libraries. This includes a significant intellectual property bar. Similarly, many attorneys are corporate and insurance defense attorneys whose practices are highly specialized and who depend mostly on their own firm or corporate libraries. The population of San Francisco is much more significant when determining the amount of litigation and appearances in court that occurs in the City. In that regard, the number of users of the San Francisco Law Library is significantly lower than any of the benchmark libraries. (This is significant when considering replacing hard copy materials with online subscriptions, as recommended below and in the findings. Fewer users means fewer concurrent subscriptions are needed to sustain peak demand.)

Furthermore, with respect to the additional materials that might be used by this significant number of business-based attorneys; since much of that is due to transactional work and to litigation from modern intellectual property claims, the Law Library's very large historical collection does not serve this additional user base. Much of the materials these attorneys would need is available online. Some additions to the treatise collection might be advised, but out-of-date treatises can be weeded in order to make way for them.

2. Controller's Recommendations

Based on observations of the three benchmark law libraries, which have undertaken significant weeding in order to reduce the size of their book collections, the Controller recommended that the size of the Law Library's book collection be reduced by one-third. This

recommendation is not based on an actual examination of what materials might be weeded, except to note that the benchmark law libraries seemed to do their weeding based on the ability to retrieve the same legal information through online services. The analysts did not determine the value of book versus online access in the various settings.

On page 19 of the Controller's Draft Report is the following paragraph, which sums up the Report's recommendation:

The Law Library's future space requirements can be limited to 35,000 gross square feet, as opposed to the Assessment's projection of up to 82,713 gross square feet, by 2055. Space savings would be the result of increased use of weeding and other collection management techniques to limit the Library's annual net increase in materials to 1,750 volumes, or 250 linear feet [of shelving]. Other options to limit the Library's future space needs, not utilized in our analysis but which should be considered, include the use of offsite storage, compact shelving and increased digitalization and binding.

The Controller's Draft Report was quite correct in its criticism of the 2002 Assessment (made by a consultant hired by the Law Library) in that that Assessment presumed an annual growth rate in the number of books constant with 2002 levels and no weeding at all. Such an assessment simply fails to take into account the changing nature of publication, especially for legal materials. The 2002 Assessment uses the old academic law library model, which even academic law libraries no longer subscribe to.

The major publisher of court opinions for the last 140 years has been West Publishing, now owned by Thomson Reuters. West's National Reporter System was the mainstay of every American law library. Now very few law libraries subscribe to this hardbound set of materials, except for small parts which are useful for local conditions. Most every law firm library in San Francisco has replaced its National Reporter System with subscriptions to online legal research databases. The Westlaw database is the National Reporter System, including all the old indexing and digesting, plus much more. Some few libraries might keep the California Reporter, a small part of the National Reporter System, because within its environment that set lowers the numbers of simultaneous users of Westlaw.

Some of the weeding that has occurred at the two benchmark law libraries is weeding of volumes of the National Reporter System, but they have weeded much more besides. Yet the benchmark libraries may well have not weeded as much as the Law Library might be able to do, since it serves a smaller population. Online access would be sufficient for more titles than at these county law libraries in larger counties.

The Controller's Draft Report also refers only briefly to "offsite storage" and "compact shelving". Given the rent cost for space in San Francisco, those two options must be included in any reasonable space plan for the Law Library.

I admit that I am confused by the terms "increased digitization and binding" in this context. Digitization would presumably refer to the possibility of digitizing (possibly through high-speed scanners) portions of the historical collection so as to make them accessible as in-house online documents. The San Diego County Public Law Library did undergo a major digitization project for its California appellate briefs and records depository by taking the lead for the State of California in bargaining with Briefserve (now owned by Thomson Reuters) to digitize its collection, and provide free access to the California appellate briefs and records libraries while offering online access to

Briefserve customers. The San Francisco Law Library might try to create a similar project, either through a commercial vendor or from a grant, for components of its historical collection which have not yet been digitized elsewhere, but I do not recommend that as a necessary step toward reducing the size of the Law Library collection. Frankly, most of the items owned by the San Francisco Law Library, other than very old treatises and rare books, have likely been digitized already. Many old treatises and rare books are now being digitized as part of long-term projects at academic law libraries. ("Binding" would not reduce volume count, so I do not know what that word is referring to.)

3. Comparison and contrast

The Controller's Draft Report also did not deal with the nuance that would have been noted, had the analysts been able to visit the two benchmark law libraries. For instance, the San Diego County Public Law Library began its weeding process much earlier than noted in the Report, having had a collection of over 370,000 in the late 1990's. (Part of the weeding was the California appellate briefs and records collection.) Also, the San Diego County Public Law Library has a main library and three branches. At each branch, some hard copy volumes remain which are duplicates of volumes at the main library. Were the library all in one place, then further weeding would have been possible. The Alameda County Law Library also maintains a branch library.

All three of the benchmark law libraries have also had space issues for some time. All three are substantial collectors of microfiche as an alternative to book format. All three have also had a strong weeding policy at their libraries for many years. In fact, a substantial amount of titles found in storage in Brooks Hall, such as state court reporters, which were always duplicated by the West National Reporter System, were weeded from all three benchmark law libraries long before there was any reliance on legal databases.

The San Francisco Law Library does not have a substantial microfiche collection. Such collecting is becoming out of date now that digitization has taken hold.

I was unable to determine if the San Francisco Law Library has a strong weeding policy. The holdings in Brooks Hall cast considerable doubt on whether it does. Presumably, some items are routinely weeded, such as old pocket parts, but it appears that the Library may have retained hard copy volumes of large sets when they have been replaced.

4. Budget Considerations for the San Francisco Law Library

A walk through the Law Library would show that the Library itself is having a difficult time with regard to revenues and budget. It has been a long-running problem for law libraries that the inflation rate for the cost of law books has exceeded the Consumer Price Index by substantial margins, such that even wealthy law firms have cut back on their book collecting and come to depend more and more on online access. (Law firms also recognize that hard copy books impose space costs.)

The Law Library has cancelled subscriptions to a large number of major sets of serial publications that are currently sitting on the open stacks of the library. Posted on many of these sets is a sign directing users to online services to view continuations of these sets, along with a statement that the cancellation was caused by lack of budget.

The 2002 Assessment presumed a continuing growth rate for the Law Library. The budgetary environment seems to suggest that the Law Library will have to rely on online access to

replace many of its current subscriptions, and possibly that this trend may continue, causing cancellation of more sets of serials. Presumably, the budget problems will also lead to a reduced rate of expenditure for hard copy treatise materials.

5. Failure to account for changes in access methods

The 2002 Assessment failed to account for the changes in access methods that are occurring in law libraries. The Controller's Draft Report addressed the matter, but only in noting how the Law Library might retain access to information lost through weeding.

As noted throughout this report, the availability of online products that replace hard copy products must be considered by the Law Library. It is apparent that this be done not just for space-saving reasons, but also to keep information acquisitions costs down. Furthermore, as subscriptions to hard copy products are reduced, staff can be redirected to serving users with regard to their online product use needs, e.g., increased light reference (leaving longer reference sessions to the reference librarians) and maintaining the equipment.

The Law Library has access to HeinOnline, which has an extensive list of materials, such as law reviews and primary law sources in foreign law. It is also developing a substantial list of older treatises. The Law Library may wish to expand the libraries within HeinOnline to which it subscribes, if it has not already done so. In any event, the Law Library must consider that older law reviews can be weeded in light of their presence on HeinOnline.

The Law Library does not subscribe to LLMC, which used to be known as Law Library Microform Consortium, a not-for-profit corporation that has a long history of providing very large amounts of materials for a very reasonable cost. For some time now LLMC has been digitizing its collection and also absorbing the digitized collections of some of the largest academic law libraries, plus the Library of Congress and, very importantly, the Los Angeles County Law Library. This consortium does not actively compete with the major commercial legal databases, so the materials available on its website are often not available on the commercial databases. The Consultant recommend that the Law Library consider a subscription to LLMC Digital.

VII. ISSUES

A. Rent Costs

The current space occupied by the San Francisco Law Library is owned by the City. For audit and inventory reasons, there is a rent cost placed on this use of the space that is transferred from one budget line to another. The cost per square foot is well below market value for space in that location, set at \$13.31/SF/yr. Total cost per year is less than \$200,000.

The proposed new location at 1200 Van Ness Avenue is owned by a private closed corporation. Space at that facility would cost the market rate of \$36/SF/yr. For a 22,000/SF/yr. facility, the total annual cost would be on the order of \$800,000. For 35,000/SF/yr., the cost would be far in excess of \$1,000,000.

B. Adjacency

Adjacency is one of the six issues identified in the Controller's Draft Report where the present quarters in the War Memorial does not measure up. A trip from/to the Law Library to/from the Superior Courts Building takes several minutes of walking plus a ride up an elevator in the War Memorial.

The proposed site at 1200 Van Ness Avenue is also several minutes by walking, but there is no elevator wait at the end of the trip, as the Library would be located on the first floor with a door to the street. Also, buses travel up and down Van Ness Avenue regularly, which would make the trip much easier for persons with physical disabilities.

The proposed facility at 1200 Van Ness Avenue is not as ideal as would be a library within the Superior Courts Building. However, that is not possible. After the unification of the courts under state control in 1998, the State of California bargained with each county to take over the courthouses. Unfortunately, there was no provision made for the State to take over the obligation to house the county law libraries. The county governments were required to return to the State each year the funds it would have otherwise spent housing the courts and the county law libraries. Those law libraries that were already in courthouses were not forced to leave immediately, but with court expansions, some have had to find new quarters, with the county expense formerly given to the State then used to finance those new quarters. The State of California does not include county law libraries in any new plans for its courthouses. Thus, the State of California forces county law libraries not to be as adjacent as would be ideal.

C. Building Entrance and Presence

As is often said, "location, location, location" is extremely important when establishing a business so that one can obtain the flow of traffic that enables a business to succeed. Not as dramatically, but still true, the same applies for government agencies. Institutions that have no street presence are hard to find, which may frustrate potential users. Given that law library users, especially those facing a court date, are already stressed, this frustration does not help. It is entirely possible that some pro per litigants go to court less prepared because they could not find the Law Library at its current location.

Along with a door on the street at 1200 Van Ness Avenue, the Law Library can have signage on the exterior of the building, announcing its presence, a feature not available at the War Memorial. This is extremely helpful to a first-time user. Also, the building itself has a very nice exterior facade, one in keeping with the stately manner of a governmental institution. There is a 24-Hour Fitness studio above the proposed space, with signage up higher on the building, but that presence alters the stateliness of the building and potential presence of the entrance only slightly.

D. Space, Load Bearing Floors

Libraries require extra load bearing for the floors due to the weight of the book stacks. While ordinary office space usually has a load bearing capacity of 75 pounds/SF, library stacks with regular aisles requires a floor load of 150 pounds/SF. For compact shelving, the load bearing capacity must be doubled to 300 pounds/SF, which is also the load bearing capacity required for microfiche cabinets. Computer equipment, especially the lightweight equipment used as user terminals, does not require any additional loading bearing. When retrofitting a rented space for use as a library, the placement of stacks and compact shelving must be taken into account.

E. Electrical and Data Communications

Adequate electrical and data communications should be provided for the Law Library.

VIII. PRINCIPLES FOR COLLECTION DEVELOPMENT AND SPACE PLANNING

Given the very high cost of space within the City of San Francisco, governments must be prepared to take into consideration the cost to taxpayers for the space they use. When possible, cost-saving measures should be invoked, so long as they do not interfere with the primary mission of the governmental agency housed there.

Below are listed a set of principles for determining which cost-saving measures work for the different uses that are needed for the San Francisco Law Library.

A. Access to Legal Information Needed in Court is Paramount

It is legal information that is needed by those going to court. People need this information in a convenient location that they can reach quickly from the courts. Information can be provided in a variety of forms, including computer access to the Internet.

The physical presence of rare books and archive materials is of value, but does not require the adjacency that basic legal information requires. Off site storage may well be warranted for such materials, but the City should not provide costly space for these materials, which can be researched, in the few instances they are, very much more at a leisurely pace.

B. Capital Costs Must be Measured Against Access Methods

1. Book collections are expensive, although they can serve many users at once.

Books take up space on stacks. The amount of space required for a row of stacks is substantial. The same amount of information can be condensed into extremely smaller space, using microforms, and much smaller yet, using CD-ROMs. However, the same amount of information can be accessed through online resources without any additional space needed at all. The very small incremental increase in space needed for a computer terminal is so marginal as to be practically negligible. In fact, with use of laptops and wifi, the ordinary workspace needed by a user is less than that needed to serve a user with a stack of books.

a. Large sets are generally cheaper in electronic form

In addition to the space saved by using large sets of materials online, such as American court opinions represented in book form as the National Reporter System or a collection of law journals, there is a savings in staff time used to maintain this information. No longer would books need to be cataloged or accessioned, nor would law journals need to be bound. Also, the cost of reshelving books would disappear. These savings can then be used to provide more access points, e.g., more laptops, for users.

b. Treatises are generally more usable in book form, but that is changing

It had been a principle among law librarians that treatises are more usable in book form. That principle was developed when comparing print books to microform editions. Flipping through pages is easier than changing pages with microforms. When users were first using electronic books, their habits were carried over, and one found users using things such as the "page down" button to move through the material.

Now things are beginning to change. E-books and materials available online through databases enable a user to use keywords to find another page. Also most systems have a way to

move to a given page, such as a find key. Younger users are getting used to books in e-book format. Others also develop this sophistication when they are heavier user.

Libraries are learning how to check out books in e-book format. Users are becoming much more acquainted with tablet PC devices. Eventually, the expectation will be that treatises should first be available in e-book format, rather than in hard copy.

2. Access to online services is based on user needs

The main issue with using online services to provide access to legal information is the cost of subscriptions. Fewer and fewer publishers still charge nearly as much for an online subscription as for a print subscription. A print subscription also costs shipping and handling charges. Some publishers have for some years been allowing reduced pricing to public law libraries for electronic materials, as they have come to recognize that even intensive use by many library users is much lower than the larger, more sophisticated uses made by legal research professionals. Pro per litigants simply do not work as fast as seasoned attorneys, so the subscription serving them is cheaper to the publisher in terms of computer usage. Also, the actual data researched tends to be in very basic materials, such as statutes and cases, most of which the publishers have long ago recovered their initial capital costs. And some publishers allow additional subscriptions to be purchased at further reduced rates.

Furthermore, free access via such services as Google Scholar are now becoming available. Pro per litigants are served by the California Courts' Online Self-help Center at <http://www.courts.ca.gov/selfhelp.htm?genpubtab> and LawHelp California at <http://lawhelpca.org/>. Findlaw and Justia also provide free access to significant materials. Serving users through these services requires only terminals and perhaps some reference.

I also suggest that the Law Library consider the many suggestions found in "The Sustainable 21st Century Law Library", which lists best practices for serving pro per litigants, with a heavy reliance on technology. It was recently written for the Cook County Law Library (Chicago, IL) by Richard Zorza, Network Coordinator for the Self Represented Litigation Network. It can be found at: <http://www.zorza.net/LawLibrary.pdf>. (The Law Library is using some of those practices already.)

a. Number of users needing the same access at peak periods

Relying on online subscriptions, in lieu of print subscriptions, does potentially require a law library to increase the number of online subscriptions, as users seek the same information resource at the same time. The wise law librarian must determine those resources that most likely would increase such costs and then find one of several solutions. For instance, one can assume that the most heavily used primary sources would be the California Codes and the court opinions found in the California Reporter. Presuming enough users, then perhaps these subscriptions should be retained in hard copy, in addition to their availability on Westlaw and Lexis, rather than adding additional subscriptions to Westlaw and Lexis.

Alternatively, if much of the use is to find particular statutes or cases, then free online sources may well fill the bill in many instances. California Codes are available on the California Legislature's website. California cases are available through Google Scholar, among other sources. The issue then would be to train users (and reference librarians) when to direct their searches to sources other than Westlaw and Lexis. However, instances when this sort of extra effort would be

needed are rare, such as when students in one class are all asked to find the same case at the same time. (Hard copy sources could not accommodate such use either.)

b. Number of total users at peak periods

The other issue with online subscriptions is the need for additional copies to handle the total number of users at peak periods. While several users can easily be handled by print materials, a particular online subscription, such as to Westlaw, can only handle one user at a time. Not all online users would be accessing the Westlaw database at the same time, so the number needed at peak periods should be judged by actual user numbers, not one subscription for every user in the Library at a peak period. Bulk purchases, and bulk purchases of just certain libraries within Westlaw, for instance, are available.

Presently, the Law Library has only a few terminals available for the public. The Law Library does not keep a gate count, and it is presumed that the Law Library does not keep a count of users seated in the Library at one time. It appears that the law library presently has approximately thirty seats for users. Presumably, that amount is sufficient to handle its current peak loads. In a new and more accessible location, one can assume that those numbers will increase. The Controller's Draft Report stated that the estimate from the 2002 Assessment of a need for 120 user seats is too high, and I agree with that. A better estimate would be to examine the peak user load at county law libraries with a comparable access and a comparable population and attorney population. Without having conducted a study, I am inclined to agree with the Controller's assessment that approximately 60 user seats would be adequate. That would be double the current seating.

C. Remote (Non-Prime) Access at Brooks Hall

1. Usable for materials not needed on a rush basis

Materials not needed on a rush basis should not take up high-cost real estate. Materials, such as those really retained mostly for purposes of historical research, should be kept at off site locations at much more reasonable cost. The Law Library actually has access to a rather good offsite storage facility, Brooks Hall. The San Francisco Public Library uses Brooks Hall for its offsite storage, with the materials arranged on regular metal library stacks in call number order so that they can be located by a runner when called for. The space is well maintained by the City and does not experience significant temperature and humidity fluctuations. The Law Library could similarly make use of Brooks Hall in this fashion. Then once a day a runner could be sent to Brooks Hall to retrieve materials or return materials to this offsite collection. I suspect that the runner would probably make the trip so rarely that the Library's more significant hurdle may be keeping library pages trained to do the work. This all assumes that the Law Library has organized these materials in a fashion so that they could be found when called for, i.e., placed on regular library stacks in a retrievable order. Presumably, they were originally labeled in some fashion to enable that when they were shelved on stacks in City Hall, either by call number or some sort of subject-author code.

If the Law Library wishes to retain older treatises that are not useful for researchers in current law, storage in Brooks Hall would be the preferred method. It would have the further advantage of being off the public shelves of the Main Library and thus not accidentally used by novice users as if the book were current.

Older sets of serial publications that are not available online could also be kept there. However, the Law Library should maintain a long-term methodical project to check such sets against online sources, as more and more historical materials are becoming available online. This should be done as the initial set-up of an offsite library is first established. As noted elsewhere, there are many sets of books, such as old state court opinions and older law journals, which are duplicated now online and serve no useful purpose in hard copy anymore. These should be weeded from the collection, rather than take up space, even in Brooks Hall.

The other potentially large collection of materials that might be stored in Brooks Hall is older foreign materials. If there is any call at all for foreign sources in the Law Library's everyday work, then the Library should explore getting subscriptions to online products to fill those needs. Even if used on a per search basis, this method would be the more logical way to go as compared to the high cost of maintaining current hard copy subscriptions. The older sources already owned and perhaps not available online could, however, be stored in Brooks Hall.

IX. RECOMMENDATIONS

A. The 1200 Van Ness Avenue Space Is Suitable and Sufficient

1. Square Feet Needed

The City is willing to rent space on the first floor of the 1200 Van Ness Avenue site of approximately 15,633 SF of net space (17,325 SF gross space) and holds a right to first offer at market value for space on the ground floor presently occupied by an MRI Center when it vacates on May 1, 2014. Including the first floor and approximately 6,500 SF gross space from the ground floor, the City's proposed space is suitable and sufficient for the Law Library and its stated mission.

The Law Library recommends renting space on the second floor, but that space is less adequate than the ground floor space, as explained below.

A potential example build out for such space could include:

First Floor:

- 8,000 linear feet of library stacks in open shelving and Reserve Book Area shelving, or up to perhaps 14,000 linear feet, using compact shelving
- 50 user seats
- a small amount of casual seating, perhaps with a display
- a 200 SF copy area
- a 500 SF Reserve Book Area
- a 1,000 SF Conference Room/Board Room
- a 350 SF Reception/Reference Desk Area
- a 1,300 SF Seminar Room
- Some 2,000 SF as Staff Area

Ground Floor:

- 6,300 linear feet of library stacks in open shelving, or perhaps up to 11,000 linear feet, using compact shelving.
- an additional 10 user seats

The total linear feet of regular open library stacks in my example build out is approximately 14,200, which would enable the Law Library to maintain a collection of 99,400 if packed tight, or nearly 80,000 volumes if 20 percent space is left for growth. Long serial runs can be packed tight, with space at the end, while treatises require some free space on each shelf, as new books need to be fitted within existing shelves.

However, if compact shelving is deployed for at least parts of the stacks, a considerable increase in total volume count can be made. Presuming an aisle every six rows, one can obtain twice as much linear feet of shelves in the same space. It should be noted that compact shelving costs about three to four times as much as standard library shelving, plus any costs needed to make the floor loads sustainable and to make the floors level enough for the tracks. The front half of the first floor sits on grade and would not need retrofitting for compact shelving.

The ground floor space below the 1200 Van Ness Avenue first floor space is presently occupied by an MRI center, for which the lease ends on May 1, 2014. This space would not require retrofitting for stack loads or compact shelving, as it currently sits on grade. The issue is whether the Law Library can wait for that space to open, since it is not available when the Library needs to move in May 2013. The City has obtained a right of first offer for the MRI space. I understand that the rear portions of the first floor, which the City has not committed to renting, are available for a short number of years. Perhaps a temporary arrangement could be made, using this space until the MRI Center space becomes available.

I recommend that stacks be placed in a north-south orientation in this new facility, in order to parallel the local seismic fault lines, which improves their strength during earthquakes. Of course, the stacks must be braced and bolted to the floors.

This example fit would presume that another facility was used for very large lectures. I was not able to determine the size and nature of the Library's occasional large lectures. The seminar room, outfitted as classroom space, could be made adjustable using movable tables and laptops. These could be removed and stackable chairs could be used for smaller theatre-style presentations. One large screen for computer slide shows, etc., would accommodate both uses.

2. Addressing the AALL Standards Deficiencies

As noted above, the Controller's Draft Report noted six specific problems with the current space for the San Francisco Law Library. Each of these concerns should be addressed in the context of using the 1200 Van Ness Avenue space as follows:

1. "The [current Law] Library is not located in or adjacent to county court buildings." Both the City and the Law Library agree that the 1200 Van Ness Avenue location is not a problem.
2. "Adequate shelf space is not provided for in the Library's current location, resulting in the bulk of the Library's collection being stored on inaccessible offsite locations." The new space can be fitted out to provide substantially more shelf space. With use of compact shelving, the amount can be further increased. Furthermore, the inaccessible offsite storage can itself be corrected to make it accessible and useful as an offsite book depository.
3. "The Library's current location does not provide adequate environmental controls." With the note that the HVAC system should be adequate to sustain a very heavy use of computer workstations throughout the facility, environmental controls should not be a problem in the new facility. Given the previous building use, it is likely that the new space can be effectively upgraded, if it is even needed.

4. "New space for staff has been added, but modern workspace for customers is lacking." The new space can and must be fitted to enable modern workspace for customers.

5. "Lighting and temperature control is not adequate [due] to presence of large glass skylights and other facility issues." In the new space, sunlight will not cause substantial environmental changes as it currently does.

6. "Library lacks adequate security system to protect the collection; the building provides security for staff and customers." The need for a book theft detection system is noted below, but that is an issue for the Law Library itself. The Law Library would suffer from the lack of building security that it enjoys at the War Memorial. It is recommended that the Law Library work with City Police to create such emergency distress systems as are routine in public buildings. As an example, the security systems presently available for branches of the San Francisco Public Library might be taken as a minimal standard. Library staff should also be trained to handle emergency situations.

The 2009 AALL County Law Library Standards can be found at:
<http://www.aallnet.org/sis/sccl/toolkit/standards.htm>.

B. Space Saving Strategies

1. Online Access

As noted throughout this report, the Law Library must invest more resources into online access. This is not just a space-saving issue. The nature of legal research has changed, and users are beginning to expect that their law libraries keep up with the times. While there will be a greater need for technical and teaching skills among the staff, the staff will be relieved from much of the physical labor required to maintain a book collection.

Data communications is a key part of this strategy, and improvements should be made as noted in the findings above.

2. Compact Shelving

Compact shelving is recommended for use of those materials housed at the 1200 Van Ness Avenue site which are used less often. Floor load bearing should be created as appropriate. Since compact shelving requires a floor load of 300 pounds/SF, the following specifics are recommended:

1. If compact shelving is used on the first floor, then it should be in the northwest corner, where the floor is on grade and capable of carrying the weight. In addition, the southwest corner of the first floor could be built out over the currently existing steps and made load bearing as well.

2. The ground floor space below the 1200 Van Ness Avenue space that is presently occupied by an MRI center would be a better fit to the Library's needs than the second floor space. The ground floor space would be available May 1, 2014. As noted, this space would not require retrofitting, even for compact shelving, as it currently sits on grade.

3. If space on the second floor is used, it should be retrofitted to handle compact shelving.

3. Weeding and Subsequent Use of Brooks Hall

Regardless of where the Law Library ends up located or how much space it has, the Library should engage an extensive weeding program as described above. This weeding should be done at

Brooks Hall so that the materials weeded can be removed from the collection without having to ship them to an alternate location.

The caged area in Brooks Hall presently occupied by the Law Library would make a good space for an offsite storage collection, similar to the one in Brooks Hall presently occupied by the San Francisco Public Library. Stacks should be added and the books retained there should be arranged in their current classification system.

Subsequent to the intense weeding project suggested here, the space outside of the caged area should be returned to the City for other uses.

4. Paging System

The Law Library can establish an offsite storage facility that is set up for book retrieval at Brooks Hall. It is highly recommended that the Library do so for its historical collection, at least those volumes which are not weeded. A daily paging system can be worked out by the Law Library to retrieve books as requested by patrons. In truth, once established, the system will likely be used less often than once a day. The books presently stored in Brooks Hall must be dealt with in some fashion anyway. To return them to the new space at 1200 Van Ness Avenue would be costly and useless. Furthermore, in order to work on open public shelving, the books would need to be re-cataloged into the Library of Congress classification system, which is a costly operation compared to establishing an offsite system based on the current classification system. (A pager would have to be trained in the old classification system, but that would be much cheaper than reclassifying the books.) Regardless, a very large portion of the books presently housed in Brooks Hall should be weeded.

5. Occasional Interlibrary Loan

All law libraries should engage in interlibrary loan. The San Francisco Law Library has several sister law libraries, both within the Bay Area, such as the UC law school libraries, and in Los Angeles, such as the Los Angeles County Law Library, that are very large and have the resources to maintain very extensive legal research collections. Currently, several of them also offer express service for a cost that can likely be passed onto the user, as the presumption is that users needing something so rare but quickly would only be large law firms whose clients can afford it. Already, interlibrary loans are being replaced by Internet access. This process will likely continue until eventually, interlibrary loan will practically disappear.

6. Shared Meeting Rooms with Other Agencies or Rent

Additional flexibility in the use of space at the new location is achievable if the Law Library uses meeting rooms that are currently shared by various City agencies. This would be especially true of very large audience presentations in theatre style. Alternatively, if space is not available for free, then rented space could be used and the cost added to the entrance fee for the presentation. Provision can also be made to make classroom space within the Law Library flexible so that rooms might alternatively be used as computer classroom instruction centers and as small theatre-style lecture halls.

C. Library Book and Materials Security

With regard to the issue of security for the collection, it should be noted that library book theft detection systems are generally considered as part of ordinary library operations. These

systems work in a fashion similar to the systems employed by retail stores to protect their merchandise, with tags inserted into or encased around the products that set off an alarm system at the doors. Tags for library books are either inserted beneath the spine of the book or glued to an interior part of the book when the Library processes the book, since they remain permanently inside the book. The tags are usually able to be applied to some other materials, such as CD-ROMs, but not to microfiche.

I recommend that the San Francisco Law Library invest in a library theft detection system and apply tags to those materials that are in open stacks.

X. MAPS [Attached]

A. Current Map of the War Memorial Space

This map was provided by the Building Manager of the War Memorial Building, called the Veteran's Building in this drawing. (See Attachment A.)

B. Map of the First Floor, 1200 Van Ness Avenue

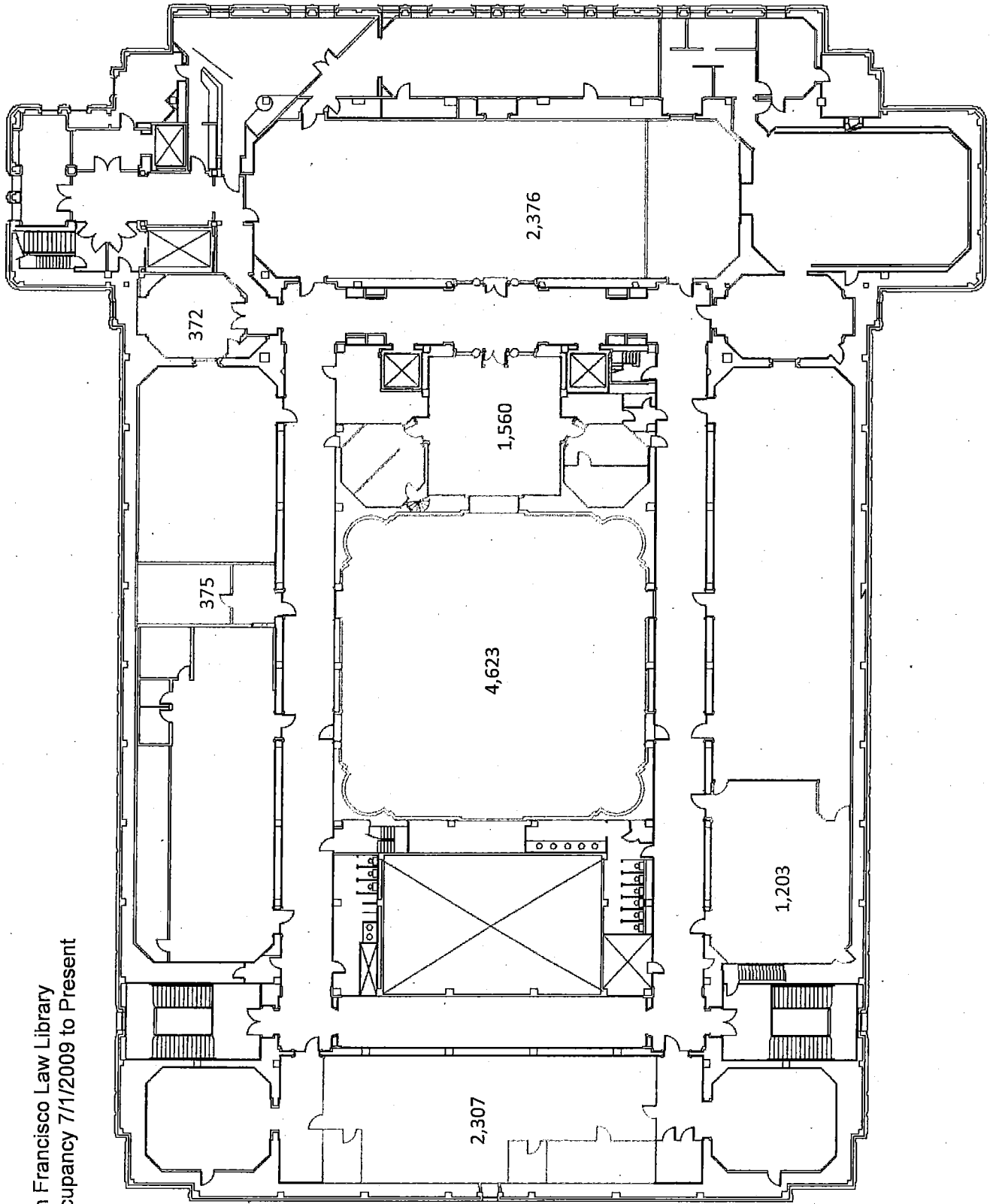
This map shows the portion of the first floor at 1200 Van Ness Avenue that would be occupied by the Law Library, plus the remainder of the space on that floor that might be occupied temporarily until the ground floor becomes available. (See Attachment B.)

I do not have a drawing of the ground floor. The space considered for this report is directly below the space on the first floor approximately between pillar lines 9 and 13 and C and E.

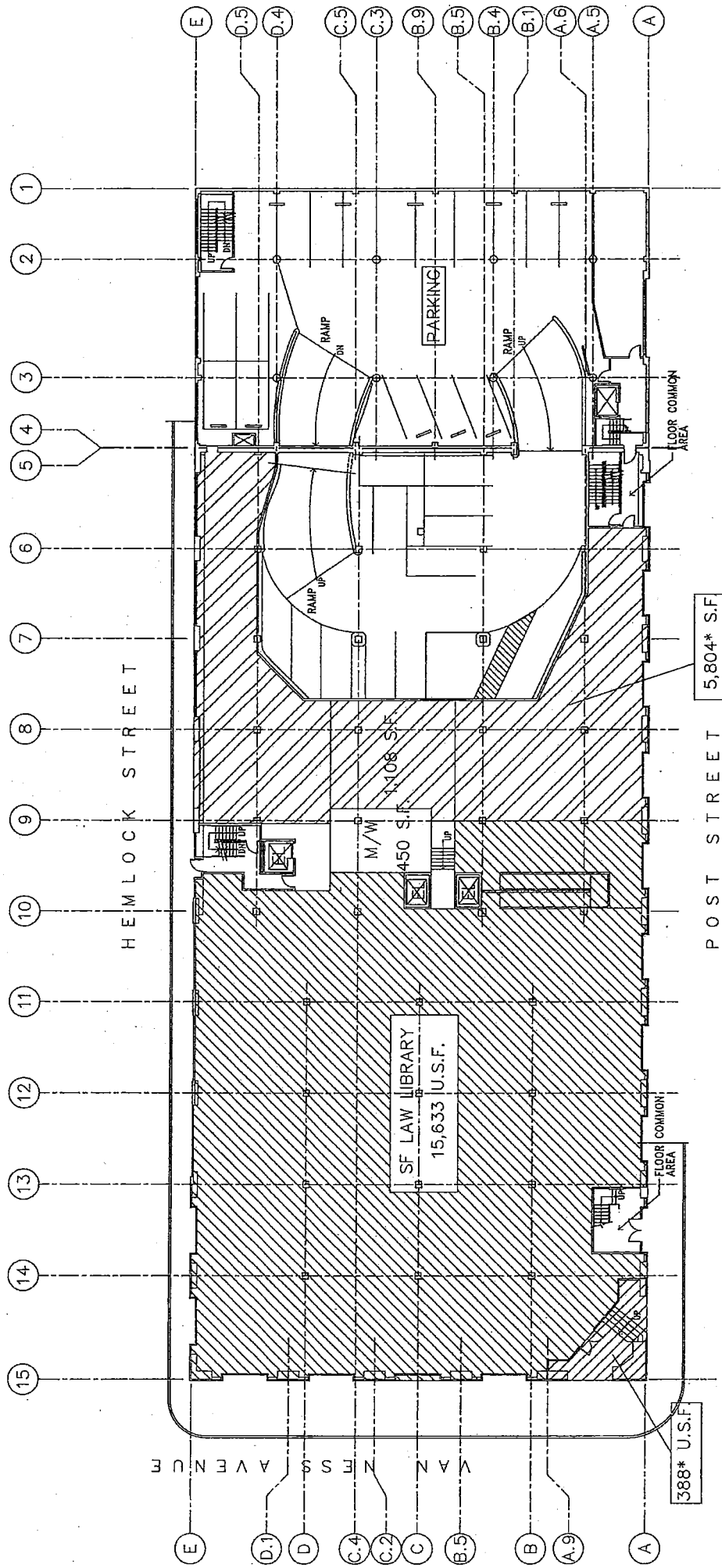
Attachment A

Veterans Building - 4th Floor

San Francisco Law Library
Occupancy 7/1/2009 to Present



Attachment B



○ FIRST FLOOR PLAN
1"=16'-0"



GROSS - 17,325 s.f.
 USABLE - 15,633 u.s.f.
 FLOOR COMMON - 1,558 s.f.
 NON-RENTABLE - 134 s.f.
 * AREAS NOT INCLUDED IN GROSS



NATURAL RESOURCES DEFENSE COUNCIL

March 21, 2013

Via e-mail to
Supervisor David Chiu
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
David.Chiu@sfgov.org

Re: Save the San Francisco Law Library

Dear Supervisor Chiu:

Please provide a permanent home for the San Francisco Law Library. This is an urgent concern to us and, more broadly, to San Francisco's non-profit legal community.

We are practicing attorneys in the San Francisco offices of seven non-profit organizations: the Natural Resources Defense Council; the Center for Biological Diversity; the Center for Food Safety; the Center on Race, Poverty, and the Environment; San Francisco Baykeeper; the Sierra Club; and the Wild Equity Institute. We work to protect the health of people, our communities, and the natural environment. Access to a wide range of current and historical legal resources is vital to this work.

The Law Library provides the public, including the non-profit community, with free access to legal information that is not available elsewhere, or is available only at prices that are prohibitively expensive for many non-profits and solo practitioners. The knowledge and extraordinary helpfulness of the Library's reference librarians improve our research and save critical time. These resources can make or break cases of tremendous importance to the people of this City.

Without the San Francisco Law Library, our work and the work of non-profit attorneys across the city would suffer. We urge you to save the Law Library, and find it a permanent home now.

Supervisor David Chiu
March 21, 2013
Page 2

Sincerely,

Johanna Wald
Natural Resources Defense Council

Lisa Belenky
Center for Biological Diversity

Paige Tomaselli
Center for Food Safety

Brent Newell
Center on Race, Poverty, and the
Environment

Jason Flanders
San Francisco Baykeeper

Pat Gallagher
Sierra Club

Brent Plater
Wild Equity Institute

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11 THE SAN FRANCISCO LAW LIBRARY

ENDORSED
FILED
Superior Court of California
County of San Francisco

MAR 13 2013

CLERK OF THE COURT
BY: ROSSALY DE LA VEGA
Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 CITY AND COUNTY OF SAN FRANCISCO
10 UNLIMITED JURISDICTION

12 THE SAN FRANCISCO LAW LIBRARY,

13 Petitioner and Plaintiff,

14 v.

15 CITY AND COUNTY OF SAN FRANCISCO;
16 NAOMI KELLY, IN HER CAPACITY AS CITY
17 ADMINISTRATOR; THE SAN FRANCISCO
18 WAR MEMORIAL AND PERFORMING ARTS
19 CENTER; THE SAN FRANCISCO WAR
20 MEMORIAL AND PERFORMING ARTS
21 CENTER BOARD OF TRUSTEES AND EACH
22 INDIVIDUAL TRUSTEE IN HIS OR HER
23 CAPACITY AS TRUSTEE, NAMELY, THE
24 HONORABLE EDWIN M. LEE, MAYOR;
25 MAJOR GENERAL J. MICHAEL MYATT
26 (RET.); WILKES BASHFORD; NANCY H.
27 BECHTLE; BELVA DAVIS; THOMAS E. HORN;
28 CLAUDE M. JARMAN, JR.; MRS. GEORGE R.
MOSCONE; PAUL F. PELOSI; CHARLOTTE
MAILLIARD SHULTZ; JAMES W. STAFFORD;
DIANE B. WILSEY; and DOES 1 THROUGH 15,

Respondents and Defendants.

No. CPF-13-512769

FIRST AMENDED PETITION FOR
WRIT OF MANDATE AND
COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF

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1 INTRODUCTION

2 1. Petitioner and Plaintiff San Francisco Law Library (the "Library" or "Petitioner"), seeks
3 a writ of mandate commanding Respondents to provide complete, adequate, readily accessible and
4 suitable space and facilities for the Library, as required by the San Francisco City Charter and State
5 law. For close to two decades, Respondents have failed to provide these facilities while purportedly
6 negotiating various solutions, all of which were ultimately unsuitable or not feasible. The imminent
7 closure of the Library's current location in the War Memorial Veterans Building ("Veterans
8 Building") in May 2013, and Respondents' refusal to provide suitable new quarters threaten to
9 render the Library literally homeless. The relief sought in this Petition is proper and necessary
10 because Petitioner has no other adequate legal remedy and Respondents have failed to provide such
11 space and facilities as they are specifically required by law to do.

12 2. The Library is a non-profit public corporation which has served San Francisco's legal
13 community and inhabitants, including those less advantaged, for more than 140 years. Until City
14 Hall closed in 1995 as a result of the extensive damage caused by the 1989 Loma Prieta earthquake,
15 the Library shared part of the fourth floor of City Hall with the Superior Courts, and also had
16 additional space in the building. In January 1994, the City Architect, on behalf of the City and
17 County of San Francisco (the "City"), advised the Library's Board of Trustees (the "Board") that the
18 Library would be moved out of City Hall into the Veterans Building for two or three years while
19 City Hall was closed for seismic repairs, after which time the Library would return to its quarters in
20 a restored City Hall. The City Architect further advised the Board that upon the Library's return, it
21 might obtain, in addition to its previous space, some of the City Hall space that was being vacated
22 by the courts. The City, however, did not fulfill its 1994 commitments and to this day the Library
23 remains without a permanent home, with much of its material in storage.

24 3. The Library has located what may be the only currently available suitable space at 1200
25 Van Ness and has drastically reduced the size of its collection in an effort to reach a compromise
26 with the City and fit into the approximately 30,000-35,000 gross square feet available at that
27 location. Thirty thousand gross square feet, which is significantly less than professional space
28 planners previously projected, is consistent with the City's 2010 assessment that the Library will

1 need approximately 35,000 gross square feet. It is also consistent with the space accorded to county
2 law libraries in other major metropolitan areas in California. See Paragraph 26, *infra*. The City,
3 however, has refused to fund even this bare minimum amount of space, and instead has proposed
4 that the Library needs no more than 20,000 net rentable square feet—a woefully inadequate amount
5 of space for a full service law library in a populous commercial and legal center like San Francisco.
6 With any less than 30,000 gross square feet, the Library will be unable to provide essential services
7 and will be forced to discard a large portion of its collection.

8 4. Although City officials have recognized the inadequacy of the Library's current quarters
9 and have been aware of the impending closure for some time, they nonetheless have failed and
10 refused to take steps to remedy the situation. Despite the urgency of the May 2013 deadline, the
11 City has refused to fund adequate space in the new location and also refused to pay for the cost of
12 necessary furniture, fixtures and equipment, moving expenses and the like. In doing so, the City has
13 violated the City Charter and State law, and breached its obligations to the Library, the legal
14 community and the general public.

15 16 THE PARTIES

17 5. Petitioner and Plaintiff is the San Francisco Law Library, a California public non-profit
18 corporation located in San Francisco. The Library is a creature of both statute and charter.
19 Although it has a role within the City and County government, the Library is a separate legal entity
20 organized under special State legislation adopted on March 10, 1870, which established it as a
21 public corporation. See 1869-70 Cal. Stat. at 235 (the "1870 Act"). The California legislature later
22 repealed the 1870 Act, but that repeal was prospective only; therefore, the 1870 Act is still effective
23 and remains good law as to the Library. Subsequent City Charters, including the present Charter,
24 have recognized the continuing effect of the 1870 Act and incorporated its requirements. The
25 present Charter provides that "[t]he San Francisco Law Library shall be under the management and
26 control of the Board of Trustees, as established by act of Legislature approved March 9, 1870," and
27 that the City and County of San Francisco must "provide suitable and sufficient quarters for the Law
28 Library, fix up and furnish the same and provide for the supply of necessary light, heat, stationery

1 and other conveniences. The library shall be so located as to be readily accessible to the judges and
2 officers of the courts." Charter of the City and County of San Francisco ("Charter") art. VIII, §8.103
3 (1996) ("Section 8.103"). As a public corporation distinct from the City government, the Library
4 has standing to sue the City.

5 6. Respondents and Defendants are the City, the City Administrator, Naomi Kelly, in her
6 official capacity, the San Francisco War Memorial and Performing Arts Center, and the San
7 Francisco War Memorial and Performing Arts Center Board of Trustees ("War Memorial Board of
8 Trustees"), and each individual trustee in his or her capacity as trustee, namely, the Honorable
9 Edwin M. Lee, Mayor, Major General J. Michael Myatt, USMC (Ret.), President Wilkes Bashford,
10 Vice President Nancy H. Bechtle, Belva Davis, Thomas E. Horn, Claude M. Jarman, Jr., Mrs.
11 George R. Moscone, Paul F. Pelosi, Charlotte Mailliard Shultz, James W. Stafford and Diane B.
12 Wilsey. Respondents and Defendants the City, the City Administrator, the San Francisco War
13 Memorial and Performing Arts Center and the War Memorial Board of Trustees and each individual
14 trustee are collectively referred to herein as "Respondents."

15 7. Under the Charter, the City Administrator, as the director of the Department of
16 Administrative Services, "shall manage all public buildings, facilities and real estate of the City and
17 County [of San Francisco]." Charter art. IV, §4.129. The San Francisco Administrative Code
18 further states that the City Administrator, as the Director of Administrative Services, "shall have
19 charge of all public buildings . . . of the City and County . . . including the allocation of office space
20 therein . . ." San Francisco Admin. Code §4.1. As a result, the City Administrator is the officer
21 primarily responsible for the allocation of public office space, and owes a duty to the Library and the
22 public to provide the Library accommodations suitable under the Charter and statutory provisions.

23 8. The San Francisco War Memorial and Performing Arts Center and the War Memorial
24 Board of Trustees are joined as Respondents and Defendants because they are parties with an
25 interest in the Veterans Building. The San Francisco War Memorial and Performing Arts Center is a
26 department of the City and County of San Francisco. The War Memorial Board of Trustees, the
27 governing board of the War Memorial and Performing Arts Center, consists of eleven trustees
28 appointed by the Mayor for four-year terms, and the Mayor. Charter §5.106. The current trustees

1 on the War Memorial Board of Trustees are the Honorable Edwin M. Lee, Mayor, Major General J.
2 Michael Myatt, USMC (Ret.), President Wilkes Bashford, Vice President Nancy H. Bechtle, Belva
3 Davis, Thomas E. Horn, Claude M. Jarman, Jr., Mrs. George R. Moscone, Paul F. Pelosi, Charlotte
4 Mailliard Shultz, James W. Stafford and Diane B. Wilsey. The Board of Trustees is responsible for
5 the construction, administration, management, superintendence and operation of the War Memorial
6 and Performing Arts Center. The War Memorial Board of Trustees appoints a Managing Director
7 and an Assistant Managing Director/Executive Secretary. Petitioner is informed and believes and
8 therefore alleges that the Director of Property of the City and County of San Francisco has a
9 continuing "Memorandum of Understanding" with the War Memorial Board dated October 26,
10 1994, to accommodate the "continued, temporary use and occupancy" of space in the Veterans
11 Building for various City offices, including the Law Library, until such time as the building is
12 closed for seismic retrofitting or until such time as the space is otherwise required by the Board of
13 Trustees. While the City holds the title to the Veterans Building, Petitioner is informed and believes
14 and therefore alleges that the City claims that the War Memorial Board of Trustees is authorized to
15 determine occupancies of the Veterans Building, and Petitioner anticipates that Respondents will
16 attempt to evict the Library from the Veterans Building on or around May 31, 2013. The Special
17 Committee for the Veterans Building Project is composed of War Memorial Trustees Thomas E.
18 Horn (Chair), Wilkes Bashford, Nancy H. Bechtle, Belva Davis and Paul Pelosi.

19 9. The real names and capacities of Does 1 through 15 are unknown to Petitioner at this
20 time, and for that reason they are sued here under fictitious names. Petitioner will ask leave of this
21 Court to amend this Petition and Complaint to add such names and capacities, along with
22 appropriate charging allegations, when the same are ascertained.

23 24 **ROLE OF THE LIBRARY AND ITS BOARD OF TRUSTEES**

25 10. The history of the San Francisco Law Library traces back to 1865, when leading
26 members of the San Francisco bar formed the San Francisco Law Library Association, a
27 subscription membership organization. By 1869, when the Library could no longer meet the
28 demands of the City's rapidly expanding legal community, leaders of the local bar and judiciary

1 petitioned the State Legislature for a law establishing the San Francisco Law Library as a public law
2 library, amending the 1863 legislation under which the Law Library Association was formed. The
3 ensuing 1870 Act was very specific about the Library's role, stating:

4 Whereas, In the great and-rapidly increasing City of San Francisco, a large and more
5 complete law library, which shall be conveniently located, and at all appropriate times
6 be readily accessible to the various Courts, the bar, the municipal officers, and litigants,
7 is essential to the orderly, speedy and correct administration . . . of justice therein; and
8 whereas, in view of such want it is deemed important for the complete and perfect
accomplishment of the public purposes for which the municipal government of the City
and County of San Francisco is organized and maintained, that a complete public law
library should be established, and its use secured to the various Courts, the bar, the
municipal authorities, and the citizens of San Francisco. (1869-70 Cal. Stat. at 235-36)

9 11. The Charter grants the San Francisco Law Library Board of Trustees "complete
10 authority to manage its affairs consistent with this Charter and state law." Section 8.103. The
11 Charter also provides that "[t]he judiciary, City, County and state officials, members of the Bar, and
12 all inhabitants of the City and County shall have free access, use and enjoyment of the Law Library,
13 subject to the rules and regulations of the Trustees." *Id.*; see also 1869-70 Cal. Stat. at 236 (granting
14 citizens of San Francisco and members of the California bar "free access to and the full and entire
15 use and enjoyment of said law library"). Thus, under both the Charter and California State law, the
16 Board of Trustees has a duty to the legal community, the judiciary, City, County and State officials,
17 and all residents of San Francisco to provide access to the Library's collection and adequate
18 facilities for its operations.

19 12. The Library shared the fourth floor of City Hall with the Superior Courts from the day
20 City Hall opened in 1914 until it closed for seismic repairs in 1995. The Library's location, flanked
21 on both sides by trial courtrooms, prevented it from expanding as its collection grew. But the use of
22 exceptionally tall bookshelves, the basement, and attic space beneath the dome of City Hall enabled
23 the Library to accommodate 250,000 volumes as of 1995.

24 13. The City's failure to provide adequate space since 1995 has prevented the Board of
25 Trustees from performing its duty to the legal community, the judiciary, the municipal authorities
26 and the public. As a public non-profit corporation, the Board of Trustees must perform its duties in
27 good faith, in a manner each Trustee believes is in the best interests of the Library, and with such
28

1 care as an ordinarily prudent person in a like position would use under similar circumstances. As
2 such, under the rules applicable to non-profit corporations, the Board must act regarding the
3 Library's needs for adequate, accessible and suitable space. More specifically, the Board must
4 exercise reasonable efforts to ensure that the City meets its responsibilities and obligations under the
5 Charter and State law. The Board's duty includes seeking judicial relief to remedy the City's
6 ongoing failure and refusal to provide adequate, accessible and suitable space. That situation is now
7 critical, because the Veterans Building is scheduled to close for seismic upgrades in May 2013, and
8 the Library's current inadequate space will not even be available when the Veterans Building
9 reopens.

10 11 **ROLE OF THE CITY**

12 14. The specific duties of the City and County of San Francisco regarding the Library were
13 first articulated in Section 8 of the 1870 Act, which reads:

14 The City and County of San Francisco is hereby authorized and required to provide, fit
15 up and furnish, and provide with fuel, lights, stationery and all necessary conveniences
16 and care, rooms convenient and accessible to the Courts, sufficient for the use and
17 accommodation of said law library and those who have occasion for its use. And the
18 Board of Supervisors of the City and County of San Francisco are hereby authorized,
19 empowered and required to appropriate, allow and order paid out of the General Fund
20 such sums as may be necessary for the purposes aforesaid (1869-70 Cal. Stat. at
21 238)

19 The basic duty articulated by the 1870 Act was later explicitly incorporated in Section 8.103 of the
20 City Charter, which now states in relevant part:

21 The City and County shall provide suitable and sufficient quarters for the Law Library,
22 fix up and furnish the same and provide for the supply of necessary light, heat,
23 stationery and other conveniences. The library shall be so located as to be readily
24 accessible to the judges and officers of the courts. (Section 8.103)

24 **ONGOING FAILURE OF THE CITY TO PROVIDE ADEQUATE SPACE**

25 15. In October 1995, while the Library was "temporarily" located in the Veterans Building,
26 the City informed the Library that if the Library returned to City Hall, it would not be allocated any
27 additional space and would in fact be allocated even less space than it had occupied prior to the
28 retrofit. More importantly, the City told the Library that the tall shelf units it had been using could

1 no longer be permitted under more recent safety and seismic regulations, and that it could no longer
2 use any part of the attic. The City's position meant that substantial shelf space would also be lost.

3 The Library objected to these arrangements as grossly inadequate.

4 16. On March 13, 1996, the Library's director, Marcia Bell, sent a memorandum to the
5 City's Department of Real Estate stating the Library's space requirements and noting the City's
6 failure to provide adequate space at City Hall. The letter specifically outlined the City's duties
7 under the Charter, enclosing the relevant Charter provisions. On March 25, 1996 (after the City
8 failed to make any commitment regarding the Library's location), the Board sent a letter to the
9 City's Chief Administrative Officer advising him of the Library's space requirements and requesting
10 that the City locate the Library in the Civic Center. In April 1996, the Mayor of San Francisco
11 informed the Library and former City Hall departments that the Library would return to City Hall.
12 But in July 1997, the City determined that space would not be made available in the new City Hall
13 and instead the Library would be housed in a new building, to be constructed at 525 Golden Gate
14 Avenue. The Department of Administrative Services told the Board that it would recommend that
15 the Library be provided the full amount of space needed, which at that time was approximately
16 35,865 net square feet. The projected opening date was Spring 2000.

17 17. Despite these representations, development was repeatedly postponed over the course of
18 almost four years, during which City officials continued to assure the Library that it would be
19 moved into the new building. In May 2001, the Board learned inadvertently that the Library was no
20 longer on the prospective tenant list for the new building. Following discussions with then-Director
21 of Administrative Services Ryan Brooks and the acting City Architect, the City reinstated the
22 Library on the prospective tenant list and asked the Library to supply data regarding its space needs.
23 But shortly thereafter the project manager for 525 Golden Gate Avenue informed the Library that
24 there would be no room for the Library in the new building.

25 18. The City ultimately abandoned its plans to tear down and rebuild the 525 Golden Gate
26 Avenue building. Subsequently, the Library, representatives from the Bar Association, of San
27 Francisco and others concerned about the Library's space crisis brought their concerns to the Mayor,
28 who led a collaborative effort to obtain a suitable space sufficient to meet the Library's present and

1 future needs. The Mayor's task force determined that it was economically and structurally feasible
2 to renovate the 525 Golden Gate Avenue building to house the Library, a "Justice Center" and other
3 uses. In 2004, the Board of Supervisors passed an unanimous resolution in support of the project,
4 and the City obtained an amended environmental impact review and permits. Once again, however,
5 the City failed to take the project forward. (The City eventually sold the property, so it is no longer
6 an option for the Library.)

7 19. The Library explored and proposed other prospective properties in addition to 525
8 Golden Gate Avenue, including the Culinary Academy at 625 Polk Street, 690 Van Ness Avenue,
9 the Merchandise Mart at 1355 Market Street, Van Ness at Grove, the basement of Brooks Hall, and
10 several other Civic Center properties, all without success. For several years in the mid-2000's, the
11 AAA building at 150 Van Ness Avenue was a potential location, but ultimately the City decided not
12 to acquire the property.

13 20. In Fall 2011, the City recommended leasing 155 Hayes Street for the Library, but by
14 early 2012 the property had been sold and was no longer an option. In March 2012, the City's
15 Department of Real Estate proposed the Bank of America Data Center at 1455 Market Street as a
16 strong prospect, but by June 2012 the City had abandoned that option. In July 2012, City officials
17 informed the Library that the City would not approve the expenditure of funds for a commercial
18 lease and that there were no public buildings available, effectively leaving the Library with no viable
19 options. The City also informed the Library that it had unilaterally contacted the Ninth Circuit
20 Court of Appeals Law Library, the San Francisco Public Library and the University of California,
21 Hastings School of Law, with a proposal that one of these libraries absorb the Library, such that the
22 Library would cease to exist as an independent organization. Upon information and belief, these
23 organizations informed the City that they were unable to do so.

24 21. During 2010, 2011 and 2012, the Library worked continuously and diligently without
25 success to initiate collaborative efforts with the City to assess the Library's space needs and identify
26 suitable properties for the Library's permanent home. As a result of the City's lack of support, the
27 Library was unable to make any substantive progress toward securing a viable site. The City not
28 only showed a lack of support and interest, but City officials made erroneous assessments of the

1 space analyses that the Library provided in 2010, 2011 and 2012. In sum, for nearly 18 years, the
2 Library Board of Trustees has attempted to work with the City to obtain suitable quarters for the
3 Library, and for nearly 18 years the Board has seen the City fail time and time again to provide
4 appropriate quarters. Indeed, even now, when the Library has succeeded in identifying a suitable
5 location, and only a few months from the impending closure of the Veterans Building, the City still
6 refuses to fund even the most minimally sufficient amount of space.

7 22. On March 5, 2013, after the Library had filed this lawsuit, the City belatedly came
8 forward with a new proposed resolution to support rental of 20,000 net rentable square feet at 1200
9 Van Ness Avenue for the Law Library. That resolution incorrectly claims that the City found the
10 1200 Van Ness location for the Library; in fact, the Library found it through a real estate firm it had
11 engaged in desperation. After locating the property and determining that it was potentially suitable,
12 the Library then asked the City for support for that site. The City originally suggested that it would
13 be willing to fund 22,000 square feet at 1200 Van Ness—already an inadequate amount—but now
14 has reduced that amount even further to just 20,000 net rentable square feet. This further reduction
15 has come about without explanation of any kind and, like the 22,000 square feet, does not have any
16 evidentiary support or objective basis.

17 23. The Library's "temporary" quarters in the Veterans Building cannot be used as a
18 baseline standard because they are, and always have been, insufficient and inadequate in multiple
19 ways, including but not limited to the following:

20 (a) Constructed in the early 1930's, the building is seismically unsafe, which puts
21 staff and patrons at high risk if and when there is an earthquake. In the event of an earthquake, the
22 walls and stairwells are likely to fail, and there are no alternate means of exit from the building.
23 Substantial property loss could also occur. "The risk of structural and non-structural building
24 component collapse and loss of life are possible even in a moderate earthquake."¹

25 (b) The amount of shelf space is grossly inadequate.

26
27 ¹Tom Eliot Fisch, Inc., *Executive Summary, War Memorial Veterans Building Life Safety*
28 *Study* at 3 (Nov. 1, 2004).

1 (c) The conditions are poor. The area of the stacks and the patron reading room has
2 little or no air circulation. They are subject to extreme glare, which is exacerbated by unfiltered
3 skylights in the ceiling. Even on moderately sunny days, the temperature can reach or exceed 85
4 degrees Fahrenheit. In the winter, lack of direct heat circulation and unprotected skylights often
5 result in room temperatures in the low 60s. Such unpleasant environmental conditions have resulted
6 in early closure of the Library, patron complaints and even health problems.

7 (d) The poor conditions damage the books.

8 (e) Lighting throughout the Library is indirect and poor, making it difficult for
9 patrons to read. Staff workspace lighting is inadequate. Since most of the present lighting is
10 provided by skylights rather than electrical lighting, there is very low lighting during the darkest part
11 of year.

12 (f) Numerous ceiling leaks exist.

13 (g) There is inadequate workspace for the technical services staff and some
14 workspaces have to be shared.

15 (h) Seating is inadequate. At City Hall, the Library had seating for 87 users, in
16 contrast to only 32 seats in the current space, limited primarily to five tables. Reference interviews
17 are conducted in the lobby, because there are no private areas for patrons to meet with the librarians.

18 (i) Space and wiring constraints permit only nine public access computer terminals
19 for use of the catalog, internet and electronic resources. This is entirely inadequate to serve the
20 Library's user population.

21 (j) Much of the Library's material—about two-thirds of its collection—is in closed
22 storage and hence completely inaccessible to staff and patrons. The materials in storage include
23 archival materials that are largely unavailable to patrons anywhere else in the Bay Area and which
24 are regularly requested by patrons. In addition to being inaccessible, the storage conditions are poor,
25 and the Library's collection is suffering permanent damage due to rats, dust and insect infestation.
26 The books are packed in boxes that are deteriorating and improperly stacked, which results in the
27 boxes collapsing and crushing the books. (In an earlier storage location, a portion of the collection
28 was destroyed by water leaks.)

1 (k) The Library owns an extraordinary and very valuable rare law book collection
2 dating back to the 15th century, which includes the first compilation of English law (dated 1490),
3 16th and 17th century legal texts, of which only a few copies exist in the world, as well as early
4 American reports, and a unique collection of Canon law. This collection, which totals
5 approximately 11,000 volumes, must be preserved in environmentally safe conditions. After City
6 Hall closed, it initially was stored in preservation conditions at the University of California book
7 storage facility, but this arrangement was meant to be temporary. When the City announced that the
8 Library could not return to City Hall, the collection had to be moved out of the University of
9 California facility. It is now stored in non-archival cardboard boxes in a crate in a warehouse in
10 South San Francisco. Needless to say, these conditions fail to meet rare book preservation standards
11 and the collection's very existence is in jeopardy.

12 (l) The current space does not have room for the normal growth of legal materials,
13 despite extensive weeding, conversions from print to electronic formats, cancellations and discards
14 of hundreds of law reviews, reporters, and other sets and subscriptions. The shelf space at the
15 Veterans Building was intended to accommodate the Library's needs only for a brief two- or three-
16 year retrofit period in the 1990's. The Library has long since run out of shelf space, forcing it to
17 discard materials that normally would have been archived, and to store other materials on carts, in
18 boxes or on shelves in various offices at City Hall.

19 (m) The Veterans Building lacks adequate security to protect the Library's collection.

20 24. The Library requires sufficient space to accommodate its full scope of services and its
21 print and electronic collections. Both as a practical matter and as a matter of law, the Library's
22 mission and the important role it serves in providing access to legal resources cannot be reduced to a
23 handful of computer terminals. Digital media is an important resource that saves space, and the
24 Library has significantly reduced its space needs by replacing print collections with digital
25 collections. But digital resources do not eliminate the need for print legal materials—there are large
26 gaps in online sources of essential legal information that must be provided in print. Many archival
27 materials are not available electronically and will not be retrospectively digitized. The Library
28 provides free access to essential legal databases and print materials that a majority of individuals, lay

1 or professional, cannot obtain on their own. Legal publishers do not provide free access to their
2 databases, and both print and electronic subscriptions and licenses are extremely costly and beyond
3 the ability of many lawyers and the public to afford. Electronic publishers also have stringent
4 licensing restrictions and do not permit Library patrons to access the databases off-site; they must
5 use them within the Library. Print collections also are necessary to ensure equal access for all, not
6 just those who are able to use electronic resources and can afford the cost of printing research
7 results, but also those who cannot.

8 25. To function properly and to meet the needs of the San Francisco community, the Library
9 must maintain a comprehensive print and digital collection that includes state, local and federal
10 laws, ordinances, regulations and cases; legal forms; self-help materials; legal treatises, texts and
11 practice manuals; legal periodicals; legal finding aids and reference tools; and legal databases. The
12 Library also must archive and retain precedential material, and continually add materials as the law
13 changes and new resources are developed. The Library's collection conforms to the County Public
14 Law Library Standards issued by the American Association of Law Libraries in July 2008,² but
15 also—and perhaps more importantly—meets the needs of the community it serves. San Francisco is
16 a national and international commercial and legal center. As such, it requires and deserves a
17 comprehensive, full-service public law library.

18 26. Reasonably comfortable facilities and adequate workspaces are necessary to productive
19 legal research. The 20,000 net rentable square feet proposed by the City would render the Library a
20 grossly substandard public law library, particularly in comparison to other large metropolitan areas
21 and to county law libraries of similar and even smaller print collection sizes and attorney
22 populations, such as Alameda, Orange and San Diego Counties. The Library serves 19,555
23 attorneys and has approximately 263,480 volumes in its collection, but currently has only 14,310
24 gross square feet of accessible space and the City proposes increasing that to only 20,000 net
25 rentable square feet. The main branch of the Alameda County Law Library serves 8,680 attorneys

26
27 ²American Association of Law Libraries, *County Public Law Library Standards* (July 2008),
28 <http://www.aallnet.org/main-menu/Leadership-Governance/policies/PublicPolicies/policy-county-standards.html>.

1 and has only 100,267 volumes located in 30,000 gross square feet of accessible space. The Orange
2 County Law Library occupies a comfortable 47,454 gross square feet to house a collection of
3 approximately 162,784 volumes, and serves 18,445 attorneys. The San Diego County Public Law
4 Library is housed in 35,000 gross square feet with a collection of approximately 120,265 volumes
5 and serves 17,923 attorneys.³

6 27. To provide a full service library, the Library needs, at a minimum, 30,000 gross square
7 feet. Less than 30,000 gross square feet would infringe on the core functions of the Library and
8 compromise its mission. This space requirement takes into account the size of the Library's current
9 collection, ongoing weeding, discards, cancellations and reductions in print subscriptions,
10 conversions from print to electronic resources as they become available, the standards of the
11 American Association of Law Libraries for a public county law library, the Library's retention and
12 weeding policy, weeding of the collections currently held in storage, reductions in linear shelf
13 growth rates and shelving needs over time, the proliferation of digitalized content, and space
14 requirement data from comparable California county law libraries.

15 28. Library patrons include members of the public; attorneys, many of whom are solo
16 practitioners or members of small law firms; small business owners; non-profits and legal services
17 organizations, advocacy groups, minority and other bar association members, City and County
18 officials; and non-attorney personnel from law firms and government agencies in the San Francisco
19 area. Many of these patrons rely on the Library as their sole source of legal information and
20 resources; the majority of the materials and services provided by the Library are not available to the
21 public, at the San Francisco Public Library or otherwise.

22 29. As related in Paragraph 3, the Library has located property at 1200 Van Ness Avenue
23 that may well be the only even marginally suitable property to house the Library after the Veterans
24 Building closes this coming May 2013. The landlord is willing to lease approximately 30,000-
25 35,000 gross square feet to the City for use by the Library, and the Library has succeeded in having

26 _____
27 ³Attorney populations provided by the State Bar of California, <http://members.calbar.ca.gov/search/demographics/counties.aspx> (last visited Mar. 7, 2013). Volume counts and square
28 footage assessments provided by the county law libraries.

1 the City participate in negotiations about acquiring that space under a lease. However, the City is
2 unwilling to fund more than 20,000 net rentable square feet. The Library has carefully considered
3 whether it can accommodate itself and perform its services to the public within that space limitation
4 and has concluded that it cannot do so. See Paragraphs 24-28, *supra*. It has communicated that
5 conclusion to the City, but the City refuses to move from its position. The City's failure to fund
6 even a minimum of 30,000 gross square feet at 1200 Van Ness Avenue violates its duty under the
7 Charter and State law. See Section 8.103; 1869-70 Cal. Stat. at 238. This impasse between the City
8 and the Library may cause the negotiations for the leasehold at 1200 Van Ness to fail, unless this
9 Court orders the City to rent between 30,000 and 35,000 gross square feet of space (depending on
10 the landlord's and architects' designs for the property) for the Library's use at that location.

11 30. The Library lacks sufficient funds to arrange for its own occupancy needs. Instead, it is
12 wholly dependent on the City, which is charged under the Charter with providing for these needs.

13 31. The Charter does not permit the City or the City Administrator to provide the Library
14 with such inadequate, unsuitable and inaccessible quarters. By failing to act to cure the problem, the
15 City and the City Administrator have abused their discretion and failed to meet their mandatory duty
16 to provide suitable, sufficient and readily accessible space for the Library.

17 32. Most importantly, the Veterans Building is scheduled to close for seismic upgrades in
18 May 2013, and the Library's current space will not be available when the building re-opens. The
19 plan to close the Veterans Building in May of this year has been long anticipated, but even now, less
20 than three months before the impending closure of the Veterans Building, the City has not agreed to
21 a new location or indicated what will happen to the Library if the Veterans Building closes on
22 schedule. Even assuming the Library will be able to move into some amount of space at 1200 Van
23 Ness at any point in the near future, it will take months to plan, coordinate and execute the complex
24 relocation of the Library and complete any tenant improvements. Moving a library is no easy task
25 and typically requires two to three years of advance planning. Necessary tenant improvements at
26 any new location will take months and will not be completed prior to the noticed move-out date of
27 May 31, 2013. (Colleen Burke-Hill, the Facilities Administrator for the San Francisco War
28 Memorial & Performing Arts Center, has informed the Library that tenants are scheduled to be

1 completely out by May 1, 2013. According to Ms. Burke-Hill, the Library may be able to stay until
2 May 31, 2013, but no later than that.) Despite repeated requests for information, not a soul in the
3 City government has spoken with the Library about where and how the Library would serve its
4 function if it is forced to vacate the Veterans Building in May as scheduled. The Library anticipates
5 that Respondents will attempt to evict the Library from the Veterans Building when it finally closes
6 for construction on May 31, 2013.

7 33. Pursuant to the City Charter and State law, the City must locate, "fix up" and furnish
8 suitable, accessible quarters for the Library; yet another inadequate "temporary" solution will not
9 suffice. The City's failure to meet its obligations under the Charter and State law, together with the
10 imminent closure of the Veterans Building and Respondents' misguided efforts to force the Library
11 into unsuitable facilities and an inadequate amount of space, have caused an immediate crisis and
12 threatened the future of the Library.

13 14 REMEDIES

15 34. Mandate will lie to correct an abuse of discretion by a government or an official thereof.
16 Section 1085(a) of the California Code of Civil Procedure provides for review of governmental acts
17 through mandate or mandamus. That section provides that a writ of mandate will issue "to any
18 inferior tribunal, corporation, board, or person, to compel the performance of an act which the law
19 specifically enjoins . . ." Code Civ. Proc. §1085(a). In this case, the City is required by the Charter
20 and statute to provide "suitable," "complete," "sufficient" and "readily accessible" quarters for the
21 Library, and the City Administrator, as the Director of Administrative Services, is charged under the
22 Charter and the City's Administrative Code with allocating office space to City agencies and
23 departments. See Charter art. VIII, §8.103, art. IV, §4.129; San Francisco Admin. Code §4.1.
24 Accordingly, the City and the City Administrator are both proper respondents in an application for a
25 writ of mandate by the Library seeking to compel them to provide the Library with "suitable,"
26 "complete," "sufficient" and "readily accessible" quarters, and to "fix up and furnish the same." In
27 failing to provide such quarters for the Library, the City and the City Administrator have abused
28 their discretion and are in violation of the Charter and State law.

1 35. Injunctive relief is appropriate where a party may suffer great or irreparable injury or
2 where it would be extremely difficult to ascertain the amount of compensation that would afford a
3 party adequate relief. Code Civ. Proc. §526(a)(3). In this case, the Library and its patrons will
4 suffer irreparable harm if the Library were to close, even for a short time, and no amount of
5 compensation would afford relief. While the City holds the title to the Veterans Building, the City
6 has indicated that the War Memorial Board of Trustees is authorized to determine occupancies of
7 the Veterans Building. The Library anticipates that Respondents will attempt to evict the Library
8 from the Veterans Building when it closes for construction on May 31, 2013. Accordingly, the City,
9 the City Administrator, the San Francisco War Memorial and Performing Arts Center and the War
10 Memorial Board of Trustees, and each individual trustee, are appropriate defendants in an action
11 seeking to enjoin them from evicting the Library unless and until a lease or purchase of complete,
12 adequate, readily accessible and suitable space and facilities for the Library has been finalized and
13 the City has moved the Library into the new location.

14 36. The Court should find that (a) the 20,000 net rentable square feet at 1200 Van Ness
15 proffered by the City is wholly inadequate as to the amount of square footage and the amount of
16 shelf space, contrary to the needs of the bar, the judiciary, the public and City, County and State
17 officials; (b) less than a bare minimum of 30,000 gross square feet would prevent the Library from
18 fulfilling its purpose and obligations under the Charter and State law; (c) the impending closure of
19 the Veterans Building and Respondents' failure to provide adequate housing for the Library in
20 conformity with the City Charter and State law has created a crisis that requires the immediate
21 assistance of this Court; (d) in order to meet their duties under the Charter and State law, the City
22 and City Administrator must promptly provide to the Library complete, adequate, accessible and
23 suitable space, such as the 30,000-35,000 gross square feet available at 1200 Van Ness; and (e)
24 closure of the Library even for a short period of time would cause irreparable harm to the Library
25 and its patrons.

26 **FIRST CAUSE OF ACTION**
27 **(Writ Of Mandate, Code of Civil Procedure Section 1085)**

28 37. Petitioner re-alleges and incorporates by reference each and every allegation contained

1 in the foregoing paragraphs.

2 38. Respondents have a clear and present duty under statute and Charter to provide and
3 furnish adequate and suitable quarters for the Library in a location readily accessible to the judges
4 and officers of the San Francisco courts. Respondents' failure to carry out this duty and to provide
5 suitable quarters for the Library violates Section 8.103 of the City Charter and the 1870 Act.

6 39. Petitioner is directly and beneficially interested in Respondents' performance of their
7 duties. Petitioner is entitled to a writ of mandate under Code of Civil Procedure Section 1085
8 enjoining Respondents' failure and refusal to reestablish the Library in an adequate, readily
9 accessible and suitable location in accordance with the mandates of the law. At all times relevant to
10 this action, Respondents have had the ability to fulfill their duties under the law.

11 40. Over the course of the past 18 years, written demand has been repeatedly made upon
12 Respondents to perform their duties. In direct contravention of the law and Petitioner's demands,
13 Respondents have failed and refused to perform duties expressly mandated by law, despite their
14 ability to carry out those duties and despite repeated and unfulfilled promises to do so from many
15 and various officials up to and including the Mayor then in office. As a result of Respondents'
16 inaction, the Library now faces a crisis that threatens its existence as an independent entity and as a
17 valuable resource for the public. If the City continues to refuse to provide suitable housing for the
18 Library, then as of May 2013, the Library will literally be homeless.

19 41. Petitioner has no plain, speedy and adequate remedy in the ordinary course of law.
20 Unless this Court grants the relief requested, Respondents will continue to fail and refuse to perform
21 their legal duties. No money damages or other legal remedy could adequately compensate
22 Petitioner, the members of the Bar or the public for the hardship caused by Respondents' failure to
23 perform their legal duties.

24 **SECOND CAUSE OF ACTION**
25 **(Injunctive Relief For Violation of Charter Section 8.103 and the 1870**
26 **Act)**

27 42. Petitioner realleges and incorporates by reference each and every allegation contained in
28 the foregoing paragraphs.

43. Petitioner has no plain, speedy and adequate remedy in the ordinary course of law.

1 Monetary damages cannot adequately compensate for the irreparable injuries caused by
2 Respondents' actions in violation of Section 8.103 of the City Charter and the 1870 Act, or
3 Respondents' anticipated eviction of the Library on May 31, 2013, without an adequate new space
4 to house it.

5 44. Unless enjoined by this Court, Respondents will continue to violate Section 8.103 and
6 the 1870 Act by failing to house and maintain the Library in adequate, accessible and suitable space.

7 45. Petitioner is entitled to preliminary and permanent injunctive relief in the form of an
8 order enjoining Respondents from continuing to fail and refuse to provide adequate, readily
9 accessible and suitable facilities for the Library in accordance with the mandates of the law. At least
10 30,000 gross square feet is required for any space to be at least minimally adequate. Absent
11 intervention by the Court, Petitioner, the members of the legal profession, the judiciary, municipal
12 officials and the members of the public will continue to suffer irreparable harm in that they will not
13 have ready access to adequate library resources as required by the Charter and State law.

14 46. Petitioner is also entitled to preliminary and permanent injunctive relief in the form of
15 an order enjoining Respondents from evicting the Library from its current location in the Veterans
16 Building unless and until a lease or purchase of complete, adequate, readily accessible and suitable
17 space and facilities for the Library has been finalized and the City has moved the Library into the
18 new location.

19 **THIRD CAUSE OF ACTION**

20 **(Declaratory Relief For Violation of Charter Section 8.103 and the 1870 21 Act)**

22 47. Petitioner realleges and incorporates by reference each and every allegation contained in
23 the foregoing paragraphs.

24 48. An actual controversy exists between Petitioner and Respondents because Petitioner
25 contends that Respondents' refusal to provide adequate, readily accessible and suitable space for the
26 Library constitutes an ongoing violation of Section 8.103 of the City Charter and the 1870 Act.
27 Respondents continue to refuse to provide adequate and suitable quarters for the Library and indeed
28 have threatened its continued existence as an independent institution.

1 49. Petitioner therefore seeks a judicial declaration, pursuant to Code of Civil Procedure
2 Section 1060, that Respondents have violated the Charter and State law, as well as a declaration that
3 Respondents' actions and omissions in failing and refusing to provide adequate, accessible and
4 suitable space are in fact illegal.
5

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioner requests that this Court:

8 1. Issue its writ of mandate ordering Respondents to immediately provide, fix up and
9 furnish complete, adequate, readily accessible and suitable space and facilities for the Library that
10 consist of between 30,000 and 35,000 gross square feet and retain jurisdiction until the writ has been
11 carried out.

12 2. Issue an order enjoining Respondents from continuing to fail and refuse to provide
13 complete, adequate, readily accessible and suitable facilities for the Library, and from evicting the
14 Library from its current location in the Veterans Building unless and until a lease or purchase of
15 complete, adequate, readily accessible and suitable space and facilities for the Library has been
16 finalized and the City has moved the Library into the new location.

17 3. Issue a declaratory judgment that Respondents' failure to provide complete, adequate,
18 readily accessible and suitable space and facilities for the Library violates Section 8.103 of the City
19 Charter and the 1870 Act; and


20 4. Grant Petitioner its costs, reasonable attorneys' fees and such other relief that the Court
21 deems proper.
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DATED: March 13, 2013.

Respectfully,

ARNOLD & PORTER LLP

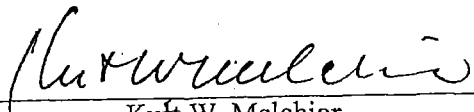
By: 
DENIS T. RICE

Attorneys for Petitioner and Plaintiff
SAN FRANCISCO LAW LIBRARY

VERIFICATION

I, Kurt W. Melchior, state that I am President of the Board of Trustees of the San Francisco Law Library, that I have read the foregoing First Amended Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief and am familiar with its contents. All facts alleged in therein are true and correct of my own personal knowledge.

I declare under penalty of perjury that the foregoing is true and correct and that this verification is made on March 13, 2013, in San Francisco, California.


Kurt W. Melchior

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**ENDORSED
FILED**
Superior Court of California
County of San Francisco
MAR 18 2013
CLERK OF THE COURT
BY: ROSSALY DE LA VEGA
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 CITY AND COUNTY OF SAN FRANCISCO
11 UNLIMITED JURISDICTION

12 THE SAN FRANCISCO LAW LIBRARY,
13
14 Petitioner and Plaintiff,
15
16 v.
17
18 CITY AND COUNTY OF SAN FRANCISCO;
NAOMI KELLY, IN HER CAPACITY AS CITY
19 ADMINISTRATOR; THE SAN FRANCISCO
WAR MEMORIAL AND PERFORMING ARTS
20 CENTER; THE SAN FRANCISCO WAR
MEMORIAL AND PERFORMING ARTS
21 CENTER BOARD OF TRUSTEES AND EACH
INDIVIDUAL TRUSTEE IN HIS OR HER
22 CAPACITY AS TRUSTEE, NAMELY, THE
HONORABLE EDWIN M. LEE, MAYOR;
23 MAJOR GENERAL J. MICHAEL MYATT
(RET.); WILKES BASHFORD; NANCY H.
24 BECHTLE; BELVA DAVIS; THOMAS E. HORN;
25 CLAUDE M. JARMAN, JR.; MRS. GEORGE R.
26 MOSCONE; PAUL F. PELOSI; CHARLOTTE
27 MAILLIARD SHULTZ; JAMES W. STAFFORD;
28 DIANE B. WILSEY; and DOES 1 THROUGH 15,

Respondents and Defendants.

No. CPF-13-512769
**MEMORANDUM OF POINTS
AND AUTHORITIES IN
SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION**

Date: April 5, 2013
Time: 9:30 a.m.
Dep't: 302
Judge: The Honorable Marla Miller

Trial Date: None Set

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1 INTRODUCTION

2 The San Francisco Law Library (the "Library"), which has struggled for the past 18 years in
3 unsuitable space in the War Memorial Veterans Building ("Veterans Building") is filing
4 contemporaneously a Motion for Issuance of a Peremptory Writ of Mandate. The purpose of the
5 Writ is to compel the City and County of San Francisco (the "City") to fulfill its obligation under
6 both State law and the City Charter to provide the Library with adequate and suitable space.

7 But a writ can only go part way to address the crucial problems facing the Library. While
8 such a writ can compel the City to take steps promptly toward providing more than the 20,000 net
9 rentable square foot space the City claims would suffice, an even more immediate and potentially
10 devastating crisis is the threatened eviction of the Library this coming May from its current quarters.
11 The Library's current quarters will not be available when it reopens after seismic upgrades. Unless
12 this Court issues a preliminary injunction to preserve the status quo, the Library will be effectively
13 closed down. Such closure would inflict irreparable harm on the public as well as the Library.

14 STATEMENT OF FACTS

15 The Library is currently housed in the Veterans Building. Petition for Writ of Mandate and
16 Complaint for Injunctive and Declaratory Relief ¶¶13-19. The Veterans Building is scheduled to
17 close for seismic upgrades in May 2013, and the Library's current space will not be available when
18 the building re-opens. Appx. 44 at ¶26.¹ On March 5, 2013, after the Library filed the Writ, the
19 Mayor introduced a resolution to the Board of Supervisors that would authorize the City's Property
20 Administrator to enter into a lease for 20,000 net rentable square feet at 1200 Van Ness. Request for
21 Judicial Notice ("RJN") ¶3 & Ex. 3 (Mayor's Proposed Resolution No. 130227). This does not
22 resolve the issue. Even if a lease were signed tomorrow, it will take months to plan, coordinate and
23 execute the complex relocation of the Library and complete any tenant improvements. Appx. 44 at
24 ¶26; 216 at ¶5. Without a preliminary injunction, the Library will be homeless all during that time.

25
26
27 ¹Citations to "Appx." are citations to the Appendix of Declarations and Exhibits filed
28 concurrently herewith. The materials in the Appendix are consecutively paginated; citations are to
the page number in the Appendix. For ease of use, we have dropped the leading zeros.

1 Contrary to the City's position, 20,000 net rentable square feet is not a "suitable and
2 sufficient" location for a major metropolitan library. RJN ¶3 & Ex. 3; *see* Memorandum of Points
3 and Authorities In Support of Motion for Issuance of Peremptory Writ of Mandate at 8, 12-15.

4 A broad spectrum of the public use the Library, including members of the public; attorneys
5 (many of whom are solo practitioners or members of small law firms); small business owners;
6 non-profits and legal services organizations; advocacy groups; minority and other bar association
7 members; City and County officials; and non-attorney personnel from law firms and government
8 agencies in the San Francisco area. Appx. 37 at ¶13. Manual counts by Library staff indicate usage
9 of approximately 30,000 patrons per year. *Id.*

10 The Library has an extensive collection of primary and secondary sources. Appx. 230 at ¶2;
11 262 at ¶5. It also has a significant collection of historical materials, such as prior versions of code,
12 administrative materials and treatises. *Id.* The Library currently holds 263,480 volumes in its print
13 collection, including those in storage. *Id.*, 242 at ¶3. Approximately 78,480 volumes are currently
14 accessible with approximately 185,000 in storage. *Id.* In addition to its print collection, the Library
15 provides free access to online and electronic materials that complement its print collections. *Id.*, 262
16 at ¶4.

17 The Library is one of the only resources available to non-attorneys who need legal assistance
18 but cannot afford representation or wish to represent themselves. Appx. 261-62 at ¶3; 297 at ¶6.
19 Many non-attorney patrons are self-represented litigants using the Library for civil litigation matters,
20 but a significant number of them use the Library for other purposes, such as drafting their own
21 contracts and wills, organizing businesses, managing rental property and even completing academic
22 assignments. *Id.*, 39-40 at ¶18. The Library provides a special collection geared to those without
23 legal background or knowledge of legal vocabulary or procedures. *Id.*, 238 at ¶9. Part of this
24 collection includes an extensive Nolo Press collection of materials written by lawyers for non-
25 lawyers on recurrent topics of everyday living, such as establishing a conservatorship for an elderly
26 parent, drafting a simple will or parenting agreement or domestic partnership agreement, writing to a
27 landlord or a tenant, or defending or bringing an eviction action or habitability issue, helping to start
28

1 a nonprofit with a civic organization, or bringing a small claims action or disputing a parking ticket.

2 *Id.*

3 Reference staff librarians provide many different types of reference services. They help
4 attorneys and non-attorneys alike find relevant and current legal materials. Appx. 39-40 at ¶18.
5 They provide orientation or overview of relevant sources, assist in helping patrons start or frame
6 research parameters and furnish information on the various kinds of resources that may best inform
7 an issue, including print and electronic sources. *Id.*, 239-40 at ¶15. Reference staff also helps in
8 locating materials outside of the Library collection and arranging for access, loans, or copies from
9 other libraries and collections. *Id.* These services are provided to patrons in person in the Library
10 and by phone and email. *Id.*

11 The Library also offers seminars on a variety of legal topics that are free and open to the
12 public. Appx. 212 at ¶3. These seminars are often aimed at lay people or young attorneys. *Id.*; 251-
13 52 at ¶9. Examples of programs at the Library include: *The America Invents Act: What Does It*
14 *Mean for Inventors, Applicants and Patentees?*; *Effective Written and Oral Advocacy: Dos and*
15 *Don'ts in Briefs and at Hearings*; *Branding Your Business: The Basics of Trademark Law Explained*
16 *in Plain English*; *Everything You Wanted to Know about Renting in San Francisco but Were Afraid*
17 *to Ask*; *Employment Discrimination Law 101: Understanding Your Rights in the Workplace*; *What*
18 *Are Judges Thinking?: Procedural Fairness and Getting to the Right Result*; as well as immigration
19 and estate planning seminars. *Id.*, 40 at ¶19.

20 Without this Court's intervention, these critical resources will disappear before litigation can
21 be resolved. For these reasons, the Library seeks a preliminary injunction to retain the status quo
22 pending outcome of this litigation *as well as* the actual signing of a new lease and completion of the
23 tenant improvements needed for the Library's operation.

24 ARGUMENT

25 Section 527 of the Code of Civil Procedure authorizes a court to issue an injunction before
26 trial. Sufficient grounds exist where a party may suffer great or irreparable injury or where it would
27 be extremely difficult to ascertain the amount of compensation that would afford a party adequate
28 relief. Code Civ. Proc. §526(a)(3). In deciding to issue an injunction, the Court must evaluate two

1 interrelated factors: (1) whether it is reasonably probable that the plaintiff will prevail on the merits
2 at trial, and (2) the interim harm that the plaintiff is likely to sustain if the injunction is denied as
3 compared to the harm that the defendant is likely to suffer if the preliminary injunction is issued.
4 *Robbins v. Superior Court*, 38 Cal. 3d 199, 205-06 (1985).

5 The Court must exercise its discretion "in favor of the party most likely to be injured If
6 the denial of an injunction would result in great harm to the plaintiff, and the defendants would
7 suffer little harm if it were granted, then it is an abuse of discretion to fail to grant the preliminary
8 injunction." *Id.* (internal quotes and citation omitted).

9 The greater the likelihood of success, the less potential harm must be demonstrated. *Butt v.*
10 *State of California*, 4 Cal. 4th 668, 677-78 (1992). Thus, "[i]f the party seeking the injunction can
11 make a sufficiently strong showing of likelihood of success on the merits, the trial court has
12 discretion to issue the injunction notwithstanding that party's inability to show that the balance of
13 harm tips in his favor." *Pleasant Hill Bayshore Disposal, Inc. v. Chip-It Recycling, Inc.*, 91 Cal.
14 App. 4th 678, 696 (2001) (quoting *Common Cause v. Bd. of Supervisors*, 49 Cal. 3d 432, 447
15 (1989)).

16 Here, the evidence is overwhelming that the Library is likely to succeed at trial on the merits.
17 In addition, as shown below, the balance of hardships weighs sharply in the Library's favor and any
18 prejudice to the Respondents is purely a result of their own inaction for over 18 years.

19 **A. The Library Has A Strong Likelihood Of Success On The Merits.**

20 The City and County of San Francisco has a statutory duty under the City Charter and State
21 Law to provide and furnish adequate and suitable quarters for the Library in an accessible location.
22 The specific duties of the City and County of San Francisco were first set forth in Section 8 of the
23 1869-70 Cal. Stat. 235 (the "1870 Act"), which reads:

24 The City and County of San Francisco is hereby authorized and
25 required to provide, fit up and furnish, and provide with fuel, lights,
26 stationery and all necessary conveniences and care, rooms convenient
27 and accessible to the Courts, sufficient for the use and accommodation
28 of said law library and those who have occasion for its use. And the
Board of Supervisors of the City and County of San Francisco are
hereby authorized, empowered and required to appropriate, allow and
order paid out of the General Fund such sums as may be necessary for
the purposes aforesaid. (1869-70 Cal. Stat. at 238 (emphasis added))

1 The California legislature later repealed the 1870 Act, but that repeal was prospective only;
2 therefore, the 1870 Act is still effective and remains good law as to the Library. *See* Cal. Bus. &
3 Prof. Code §6363 (West Supp. 2001). Subsequent City Charters, including the present Charter, have
4 recognized the continuing effect of the 1870 Act and incorporated its requirements. The basic duty
5 articulated by the 1870 Act was explicitly incorporated into Section 8.103 of the present Charter,
6 which states in relevant part:

7 The City and County shall provide suitable and sufficient quarters for
8 the Law Library, fix up and furnish the same and provide for the
9 supply of necessary light, heat, stationery and other conveniences.
10 The library shall be so located as to be readily accessible to the judges
and officers of the courts. (Charter, art. VII, § 8.103 (emphasis
added))

11 More recently, as set forth in more detail in the Motion for Peremptory Writ, the Board of
12 Supervisors acknowledged in 2004 that “[a] full-service law library and justice center facility would
13 promote access to justice by bringing together in one facility the legal resources and services needed
14 by the people of San Francisco to enable them to preserve their rights and adjudicate their claims.”
15 RJN ¶2 & Ex. 2 (San Francisco Board of Supervisors Resolution No. 09-04, File No. 031929). The
16 Board admitted that “[t]he San Francisco Law Library is necessary to serve the people of San
17 Francisco by providing access to local, state and federal legal information resources and services in
18 order that they may preserve their rights and conduct their legal affairs.” *Id.* The Board also
19 admitted that “[t]he legal needs and skills of the people of San Francisco vary and many residents
20 cannot determine and advocate their legal rights based on legal texts alone,” and as a result, “San
21 Francisco is devoted to establishing a law library justice center. *Id.* Yet now the City threatens to
22 bring an abrupt halt to the availability of such resources and services.

23 The City’s recognition of its responsibility and duty to furnish the Library with sufficient
24 space and adequate resources establishes the strength of the Library’s likelihood of success on the
25 merits.² The City must provide the Library with suitable and sufficient space, and a fortiori, the City

26
27 ²Because it will take months to plan, coordinate and execute the complex relocation of the
28 Library and complete any tenant improvements, the resolution, even if passed, comes too late to
prevent the closure of the Library. Appx. 44 at ¶26; 216 at ¶5.

1 cannot be allowed to render the Library homeless with literally no space at all, even temporarily.
2 The Library is therefore entitled to a preliminary injunction to ensure that it stays open during the
3 pendency of this litigation and the planned construction on the Veterans Building, or until the City
4 provide alternative adequate space, temporary or otherwise.

5 **B. The Balance Of Hardships Tips Sharply In The Library's Favor.**

6 The Library's strong showing of likelihood of success on the merits allows the Court to issue
7 an injunction regardless of the balance of the harm. *Pleasant Hill*, 91 Cal. App. 4th at 696. But
8 even if the Court undertook to balance the hardships, the Library would still prevail. The provision
9 of legal information is fundamental to a democratic society and essential for its people to protect
10 their rights and handle their legal affairs. Appx. 8 at ¶15; 19-20 at ¶17; 30 at ¶16. The Library's
11 vast array of resources, primary and secondary, current and historical, print and online, seminars and
12 staff are relied on for critical legal research by a wide variety of people, including members of the
13 public; attorneys, many of whom are solo practitioners or members of small law firms; small
14 business owners; non-profits and legal services organizations; advocacy groups; minority and other
15 bar association members; City and County officials; and non-attorney personnel from law firms and
16 government agencies in the San Francisco area. *Id.* 37-38 at ¶13. The City acknowledges that the
17 Library provides "access to *the full panoply of legal information resources and services*, as well as
18 legal intake, self-help, and translation services, research training programs, alternative dispute
19 facilities, conference, meeting and interview rooms, exhibit space, and other legal support services
20 for individuals, the poor, and the community. RJN ¶2 & Ex. 2. These resources are invaluable. For
21 many, the Library is their sole source of legal information and resources. Appx. 235 at ¶3. Abrupt
22 closure, for any period of time, would irreparably harm those who rely on the Library for their legal
23 research needs. *Id.*, 6-7 at ¶11; 20-21 at ¶19; 28-29 at ¶12.

24 For the solo and small firm practitioner the Library is critical because it allows them to
25 broaden their legal research and analysis providing essential access to reference materials on
26 applicable case law, procedural rules, and relevant legal background information.³ The internet

27 ³Appx. 200 at ¶2; 203 at ¶2; 206 at ¶2; 212 at ¶2; 221 at ¶2; 250 at ¶3; 255 at ¶2; 258 at ¶2;
28 274 at ¶2; 276 at ¶2; 284 at ¶2; 296 at ¶3.

1 alone is insufficient to meet the needs of both attorneys and lay people. Appx. 262 at ¶4. Libraries
2 are repositories of authoritative sources of knowledge, and authority is the mainstay of the legal
3 profession. *Id.* Access to authority is absolutely critical to navigating any litigation or transaction
4 successfully. *Id.*

5 Without the Library's print and digital resources, attorneys would face daunting obstacles to
6 providing services to clients. Those who rely primarily on the Library would suffer immensely if it
7 were to close: as an attorney cannot stop researching just because he or she is left without ready
8 access to legal resources. *See Janik v. Rudy, Exelrod & Zieff*, 119 Cal. App. 4th 930, 937 (2004)
9 (describing attorney's duty to undertake reasonable research for his or her client).

10 Lawyers sometimes face urgent and compelling need for materials in the Library's unique
11 historical collections. Appx. 224 at ¶2; 247 at ¶4. Such historical references can be critical to the
12 outcome of a case. *Id.* If the Library were to close, those needing this type of unique information
13 would be forced to go without it, much to their detriment, or attempt to obtain it through some other
14 costly means.

15 Small and solo practices are hard pressed to provide the breadth of resources available at the
16 Library. Appx. 206 at ¶3; 221 at ¶3; 261-62 at ¶3. For many small practitioners, it is essential to
17 keep costs—especially research costs—low. *Id.*, 255 at ¶3; 297 at ¶7. Some practitioners cater to
18 lower income clients who cannot afford the services of expensive law firms. *Id.* The Library's
19 closure would be devastating to them and for those who might be forced to represent themselves.

20 The patrons of the Library not only rely on the resource collections, but also use patron work
21 spaces. *See e.g.*, Appx. 201 at ¶7; 212-13 at ¶4; 252 at ¶10; 255-56 at ¶4; 276-77 at ¶4. Solo or
22 small firm practitioners who do not have any office space in San Francisco are sometimes referred to
23 the Library for meetings with clients and witnesses. *Id.*, 279 at ¶2; 281-82 at ¶2. The availability of
24 private rooms in a professional location helps clients feel comfortable and enables them to be candid
25 with their attorneys. *Id.* Losing these rooms and study space would be a significant blow for those
26 who rely on it.

27 Even law firms or organizations that have access to private libraries would be negatively
28 impacted by the Library's closure. Appx. 224 at ¶2; 230 at ¶4; 265 at ¶2; 287 at ¶2; 290 at ¶2.

1 Many firms and organizations maintain a collection of legal materials that fits their main practice
2 areas, but these collections are not comprehensive and do not always meet the needs of the
3 attorneys. *Id.* The Library is essential to fill the gaps.

4 Another category of people who stand to suffer immensely if the Library were to close are
5 non-lawyers. Non-lawyers are wholly dependent on the Library, not only to access primary sources
6 of substantive law, but to understand legal procedure through use of secondary sources such as Nolo
7 Press books, treatises, practice guides and form books. Appx. 261-62 at ¶3; 274 at ¶2; 282 at ¶4.
8 The Library's closure would effectively deprive these people of access to justice. *Id.*, 297 at ¶6.

9 It is not simply of the collections, online and print, that serve the community; it is also the
10 Library's reference staff, which is a critical resource for lay people in particular. Appx. 263 at ¶7.
11 Unlike attorneys, who generally comprehend understand the interplay between different resources
12 available, lay people lack an understanding of the multilayered resources that are essential to
13 adequate legal research. *Id.* Without the staff, the Library's resources would be incomprehensible
14 to many lay people, and underutilized by the professionals the staff assists in research and obtaining
15 materials. *Id.*

16 The Library's public seminar program has proved essential to further the goal of
17 empowering ordinary San Francisco citizens in the name of justice and in the delivery of justice.
18 Appx. 7 at ¶12; 18 at ¶14; 29 at ¶13; 212 at ¶3; 251-52 at ¶9. Without the seminars, many people
19 would be unable to access the information. *Id.*, 263 at ¶6. An example is a recent seminar on the
20 San Francisco Rent Ordinance. *Id.* The ordinance is extremely complicated and there is no book or
21 online resource that adequately explains it. *Id.* For those unable to afford experienced counsel, the
22 Library's seminar was their only opportunity to understand and ask questions about the ordinance.
23 *Id.*

24 Without the Library, lawyers, librarians, and non-attorneys would not have access to critical
25 materials that are difficult if not impossible to find elsewhere. Those unable to afford attorneys
26 would be left particularly injured, with their claims, defenses, or rights remaining unaddressed,
27 suffering impacts that could affect the rest of their lives.

28

1 Closure of the Library would be in effect the closure of justice. Any promise that the closure
2 will be only temporary does not remedy the harm, because "justice delayed is justice denied." See
3 *Grewal v. Jammu*, 191 Cal. App. 4th 977, 999 (2011) (attributing the well-known saying to William
4 Gladstone). No money damages or other legal remedy could adequately remedy the harm to the
5 Library and the public for the hardship caused by the Library's closure, even temporarily. See e.g.,
6 Appx. 6-7 at ¶11; 20-21 at ¶19; 28-29 at ¶12. Absent intervention by the Court, the public will not
7 have ready access to adequate library resources as required by the Charter and State law.⁴

8 In stark contrast, Respondents do not stand to suffer any hardship, aside from delaying a
9 proposed construction project or locating a new suitable location for the Library, as the law requires.
10 The Court can consider that any hardship the City might assert is strictly a result of its own failure to
11 fulfill its duty to provide the Library with a suitable permanent location. For 18 years the Library
12 has engaged the City in protracted negotiations, without resolution: Now, on the eve of impending
13 construction, it becomes apparent that the City was merely going through the motions, without an
14 intent to fulfill its legal duties to provide suitable and sufficient permanent space to the Library. A
15 party cannot claim any hardship based on its own disregard of legal duties.

16 The Library's high likelihood of success on the merits and the balance of hardships weighing
17 heavily in its favor more than amply justify a preliminary injunction.

18 CONCLUSION

19 For all of the reasons stated above, Petitioner respectfully requests that the Court enter an
20 order as follows:

21 A. Preliminarily enjoining Respondents from evicting the Library from its current
22 location in the Veterans Building

23 1. unless and until a lease or purchase of complete, adequate, readily accessible
24 and suitable permanent space and facilities for the Library has been finalized and the City

25 ⁴The Mayor's proposed resolution to provide the Library 20,000 net rentable square feet,
26 offered mere months before the Veterans Building is set to close, highlights the City's ongoing
27 blatant disregard for the documented needs of the Library. The resolution has not yet been enacted
28 by the Board of Supervisors, and it will take several months to adequately prepare the 1200 Van
Ness building. In the interim the Library will be forced to shut its doors, a result not allowed under
the law.

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and County of San Francisco (together with the City Administrator, the "City") has moved the Library into the new location; or

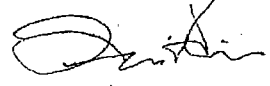
2. unless and until a new temporary location has been found and the City has moved the Library into it;

B. Preliminarily enjoining Respondents' construction from interfering with Library operations. Library operations are defined as all current operations of the Library including but not limited to print collection access; online subscriptions; study areas; reference assistance; copy and print facilities; seminars; and paralegals.

DATED: March 13, 2013.

Respectfully,

ARNOLD & PORTER LLP

By: 

DENIS T. RICE

Attorneys for Petitioner and Plaintiff SAN FRANCISCO LAW LIBRARY

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO
10 UNLIMITED JURISDICTION

11 THE SAN FRANCISCO LAW LIBRARY,
12 Petitioner and Plaintiff,

13 v.

14 CITY AND COUNTY OF SAN
FRANCISCO; NAOMI KELLY, IN HER
15 CAPACITY AS CITY ADMINISTRATOR;
THE SAN FRANCISCO WAR MEMORIAL
16 AND PERFORMING ARTS CENTER; THE
SAN FRANCISCO WAR MEMORIAL AND
17 PERFORMING ARTS CENTER BOARD OF
TRUSTEES AND EACH INDIVIDUAL
18 TRUSTEE IN HIS OR HER CAPACITY AS
TRUSTEE, NAMELY, THE HONORABLE
19 EDWIN M. LEE, MAYOR; MAJOR
GENERAL J. MICHAEL MYATT (RET.);
20 WILKES BASHFORD; NANCY H.
BECHTLE; BELVA DAVIS; THOMAS E.
21 HORN; CLAUDE M. JARMAN, JR.; MRS.
GEORGE R. MOSCONE; PAUL F. PELOSI;
22 CHARLOTTE MAILLIARD SHULTZ;
JAMES W. STAFFORD; DIANE B.
23 WILSEY; and DOES 1 THROUGH 15,

24 Respondents and Defendants.
25
26
27
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Case No.: CPF-13-512769

**EXPERT WITNESS DECLARATION OF
JOHN W. ADKINS IN SUPPORT OF
MOTION FOR ISSUANCE OF
PEREMPTORY WRIT OF MANDATE
AND FOR PRELIMINARY INJUNCTION**

1 I, John W. Adkins, declare as follows:

2 1. I have been the Director of Libraries of the San Diego County Public Law Library
3 (“SDCPLL”) since 2010. Except as otherwise stated, the statements made in this Declaration are
4 based on my personal knowledge and, if called upon to do so, I could and would testify competently
5 to the truth of the matters stated.

6 2. I received a Juris Doctorate from the University of California, Berkeley School of
7 Law, and a Masters in Library and Information Science and Bachelor of Arts, also from the
8 University of California, Berkeley. I have been a member of the California State Bar since 1988.
9 From 1988 to 1992, I was a practicing attorney at a small law firm in San Francisco. From 1992 to
10 1997, I was the Assistant Director, Head of Public Services and Adjunct Professor of Law at
11 Golden Gate University Law Library in San Francisco. I served as Acting Director of that law
12 library from 1997 to 1998. In 1998, I joined the University of San Diego School of Law and
13 served as a Reference Librarian and as Head of Public Services for 12 years. In that capacity, I was
14 responsible for the school law library’s public “face” – all services and staff related to reference and
15 research, circulation, interlibrary lending, stacks maintenance, and the training of all
16 (approximately) 1,000 law students on legal research in print and online, as well as putting on
17 research training events, and other programs. I became the Director of Libraries of the San Diego
18 County Public Law Library in 2010.

19 3. I have been a member of and involved in the San Diego Area Law Libraries
20 (“SANDALL”) since 1998, including serving as: Vice President (1999-2000); Chair of the
21 Programs Committee (1999-2000); Chair of the Long Range Planning Committee (2001-2002,
22 2009-2010); Chair of the Nominations Committee (2002-2003); Member of the Internet Committee
23 (2003-2005); Chair of the Constitution and Bylaws Committee (2003-2008); and President (2000-
24 2001, 2008-2009). I have been a member of and involved in the Council of California County Law
25 Librarians (“CCCLL”) since 2010, including serving as Vice President (2013-2014), and President-
26 Elect (2014-2015). I have been a member of the American Association of Law Libraries since
27 1992, and a member of the Southern California Association of Law Libraries since 1998. I was a
28 member of the Northern California Association of Law Libraries from 1992 to 1998. I served as

1 Editor of the *Legal Information Services to the Public Newsletter* (1998-2002) and Book Reviews
2 Editor of the *Legal Reference Services Quarterly* (1994-1999).

3 4. As Director of the SDCPLL, I am familiar with the size and nature of its facilities
4 and its print collection. The SDCPLL occupies 35,000 gross square feet and its print collection
5 contains approximately 120,265 volumes. Based on my education, my experience working in and
6 managing law libraries, and my experience with related professional organizations and programs, I
7 am familiar with the industry standards for a full service county public law library and understand
8 what collections, facilities and services are necessary. As a result of my tenure at the University of
9 California, Berkeley, and the ten years I spent working in San Francisco, first as practicing lawyer
10 and then in a law library, I am also knowledgeable about the San Francisco community and in
11 particular the role of law libraries within that community.

12 5. The SDCPLL supports the legal community, local businesses, and the public. The
13 SDCPLL serves as a satellite office where attorneys can conduct free legal research, have a quiet
14 space to work, meet with clients in private conference rooms, hold meetings and attend free and
15 low-cost educational programs. Judges and court personnel can refer self-represented litigants to
16 us, where those individuals can access legal forms, guides and legal resources written for non-
17 attorneys. The SDCPLL also hosts free legal clinics staffed by local attorneys providing pro bono
18 services to those who cannot afford a lawyer. For local businesses, the SDCPLL provides a place
19 for businesses to learn about and use the law to address business issues and take advantage of
20 market opportunities. Businesses can find answers to common legal questions and access easy-to-
21 understand guides. The SDCPLL is a networking and educational center where businesses can meet
22 with clients, prospects and colleagues in private conference rooms. Through print and electronic
23 legal resources, educational programs, legal clinics and the help of experienced legal research
24 librarians, the SDCPLL also supports the general public and the entire community.

25 6. In preparing this declaration, I reviewed the following materials:

26 a. Information about the San Francisco Law Library and its staff, patrons,
27 collections, services and policies: San Francisco Law Library 2010 Efficiency Plan - Strategic Plan,
28 Goals, Mission and Impact; San Francisco Law Library 2011 Annual Report; San Francisco Law

1 Library 2012 Annual Report; San Francisco Law Library - Staff by Function/FTE (revised January
2 2013); Gate Count Survey (2012-2013); San Francisco Law Library Collection Data Worksheet
3 2012-2013; San Francisco Law Library Retention Policy (revised Feb. 7, 2011); San Francisco
4 Law Library Spaces by Function (Jan. 24, 2012); San Francisco Law Library Layout Adjacencies
5 by Function (March 30, 2011; revised in part January 2013); San Francisco Law Library 2013 Law
6 Firm Premium Services Program; and the San Francisco Law Library budget.

7 b. County Law Library Task Force Report (May 2005); Council of California
8 County Law Librarians, *California County Law Library Space Recommendations* (September
9 2009); American Association of Law Libraries, *County Public Law Library Standards* (April 2009);
10 American Association of Law Libraries, *Ethical Principles* (April 5, 1999); and American
11 Association of Law Libraries, *Government Relations Policy* (revised July 2011). The AALL and
12 the CCCLL are among the largest and most well respected professional organizations focused on
13 law libraries and law librarians. The standards, guidelines, principles and recommendations
14 promulgated by the AALL and the CCCLL reflect industry standards and are a widely used and
15 respected source of information concerning law library requirements.

16 c. Information about comparable county law libraries other than the San Diego
17 County Public Law Library, including the websites for the Alameda County Law Library
18 (<http://www.co.alameda.ca.us/law/>), the Los Angeles County Law Library
19 (<http://www.lalawlibrary.org/default.aspx>), and the Orange County Public Law Library
20 (<http://ocpll.org/home2.html>).

21 d. The San Francisco Law Library's Petition for Writ of Mandate and
22 Complaint for Injunctive and Declaratory Relief (filed Feb. 6, 2013).

23 e. The test fit for 1200 Van Ness prepared by the Architect Doug Zucker.

24 f. The draft declaration of Ruth Geos, the San Francisco Law Library's Head
25 Reference Librarian.

26 7. According to its website, the mission of the San Francisco Law Library (the
27 "Library") is "to provide the judiciary, the public, the bar, and city, county, and state officials free
28 access and use of legal reference materials in order that they may conduct their legal affairs and

1 preserve their legal rights.”¹ In order to fulfill this mission and meet the industry standards for a
2 public county law library, the Library must have sufficient space to provide the following
3 collections, facilities and services:

4 8. **Functional Space.** The Library’s functional space should be comprised of public
5 space, administrative space, staff space, special use areas and stacks.² **Public areas** should include:
6 entry and security; an information and circulation desk; casual seating; user seating and workspaces;
7 a document processing center with public copy machines and supplies; public computer terminals
8 and a public printer; a self-help area with space for children; the reference desk, space for
9 confidential reference interviews and an office for the head reference librarian; a reserve collection
10 room; and public restrooms.³ **Administrative space** should include: a reception area and offices for
11 the Library director and assistant director; a file and supply room with workspace for administrative
12 support; and a conference room or board room.⁴ **Staff areas** should include space for technical
13 services, a staff break room, storage and janitorial space.⁵ **Special use areas** should include
14 conference rooms, seminar/community rooms and an electronic classroom, a rare book room, a
15 server room and kitchen space.⁶

16 9. **Print Collection.** To meet the needs of the San Francisco community and the
17 standards for a full-service public law library, the Library must maintain a comprehensive collection
18 that includes state, local and federal laws, ordinances, regulations and cases; legal forms; self-help
19 materials; legal treatises, texts and practice manuals; legal periodicals; legal finding aids and
20 reference tools; and legal databases.⁷ The Library must archive and retain precedential material,
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22 ¹ <http://www.sflawlibrary.org/index.aspx?page=8>.

23 ² See generally Council of California County Law Librarians (“CCCLL”), *California County Law*
24 *Library Space Recommendations* 3-9 (September 2009); American Association of Law Libraries
25 (“AALL”), *County Public Law Library Standards* 2-6 (April 2009).

26 ³ See CCCLL Recommendations at 3-7; AALL Standards ¶¶IV-V.

27 ⁴ See CCCLL Recommendations at 5-9.

28 ⁵ See *id.* at 7-9.

⁶ See *id.* at 3-9.

⁷ See AALL Standards ¶¶VI-VII.

1 and continually add materials as the law changes and new resources are developed, and discard
2 materials that are no longer relevant or current. The Library's collection and Retention Policy⁸
3 conform to the *County Public Law Library Standards* issued by the American Association of Law
4 Libraries, but also—and perhaps more importantly—meets the needs of the community it serves.
5 The AALL Standards are instructive, but should not be used to limit the scope or development of a
6 collection that meets or exceeds the standards.⁹

7 10. ***Electronic and Online Resources.*** As digital resources increase, more public
8 computers are required. As a public county law library, the Library must have sufficient computers,
9 printers, copy machines, wireless internet access and wired work stations to make online resources
10 accessible and useful. Digital media is an important resource that saves space, but it does not
11 eliminate the need for print legal materials.¹⁰ There are large gaps in online sources of essential
12 legal information that must be provided in print materials, and many archival materials are not
13 available electronically and will not be retrospectively digitized. Electronic resources require
14 additional support from library professionals because it often is necessary to instruct, train and
15 guide patrons in the use of these tools. In addition, online resources can be inaccurate or out-of-
16 date; public law libraries ensure that patrons can find accurate and current materials, whether online
17 or in print. Print collections also are necessary to ensure equal access for all, not just those who are
18 able to use electronic resources and can afford the cost of printing research results, but also those
19 who cannot.

20 11. ***Reference Services, Educational Programs and Trainings.*** Law libraries have a
21 different function than in the past. In addition to providing legal resources, public law libraries now
22 have an increased assistance and training function. Both attorney and non-attorney patrons require
23 reference assistance to navigate the law and find the information and resources they need. Non-
24 lawyers typically require more assistance because they are not familiar with the legal process, which
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26 ⁸ See San Francisco Law Library Retention Policy (revised Feb. 7, 2011).

27 ⁹ See AALL Standards ¶VII cmt.

28 ¹⁰ See CCCLL Recommendations at 6; AALL Standards ¶VII cmt.

1 can be extremely complex and confusing. Many non-attorney patrons are self-represented litigants
2 using the Library for civil litigation matters, but a significant number use the Library for other
3 purposes, such as drafting their own contracts and wills, organizing businesses, managing rental
4 property and even completing academic assignments. In addition, both attorneys and non-attorneys
5 use the Library to prepare for criminal proceedings, trials and appeals.¹¹ Reference staff can help
6 attorneys and non-attorneys alike find relevant and current legal materials. It would be a severe
7 hardship for the many individuals and organizations that rely on the Library for access to legal
8 resources if the Library were to close, even for a short period of time.

9 12. The Library also should provide educational seminars and programs for attorneys
10 and the public, including substantive trainings focusing on a specific area of law, trainings
11 regarding court procedures and advocacy, and legal research trainings. These trainings are
12 invaluable. Without proper instruction, online legal databases such as Lexis and Westlaw are
13 difficult to use, and large portions of the public are not aware of free legal resources available on the
14 internet. Programs that focus on a particular area of law or on helping lay persons navigate the legal
15 system are also an integral part of the services a public law library must provide. Seminars such as
16 these and legal research trainings are an efficient way to address knowledge gaps and answer
17 questions about a specific topic, as well as provide patrons and the public with information and
18 tools to protect their rights, represent their clients and/or manage their affairs effectively.
19 Accordingly, the Library needs at least one large seminar room and preferably an additional
20 electronic classroom for online research trainings.¹²

21 13. A public county law library should, and with adequate space, resources and staff, the
22 San Francisco Law Library also could, provide trainings for public library staff who routinely
23 receive law-related questions, court clerks, paralegals and legal secretaries, and partner with self-
24 help centers at the state and federal courts.

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27 ¹¹ See County Law Library Task Force Report, at 8 & n.21 (May 2005).

28 ¹² See CCCLL Recommendations at 5.

1 14. *Other services.* The Library must also provide document delivery and circulation
2 services, both of which require sufficient personnel and staff workspace, and conference and
3 meeting rooms. Conference rooms are particularly important for solo practitioners and other
4 patrons who may be working with others or require facilities for a meeting. The Library should
5 offer private areas for confidential meetings and to allow patrons to conduct conversations without
6 disturbing others.¹³

7 15. The provision of legal information is fundamental to a democratic society and
8 essential for its people to protect their rights and handle their legal affairs.¹⁴ The Library's
9 programs and services provide the people of San Francisco with free access to legal information and
10 specialized reference assistance in the use of those materials.¹⁵ As a public county law library, the
11 Library is already an extremely valuable asset to the community, but with more space, it could do
12 even more. For example, the Library could expand its vital role in helping low income individuals
13 resolve high stakes legal issues, providing resources and support for small business, easing the
14 burden on courts handling more and more cases with self-represented litigants, and providing free
15 educational programming. Such expansion could include partnerships with the bar, the courts
16 and/or legal aid organizations to best serve the San Francisco community. Usage could increase
17 significantly in a more suitable and permanent location, and with the development of additional
18 community programs. But without adequate space for the requisite collections, facilities and
19 services, the Library will be unable to provide essential services and as a result its role will be
20 marginalized, to the detriment of the public, the courts and the legal community.

21 16. Based on the requirements and standards for county public law libraries and the test
22 fit for 1200 Van Ness prepared by Architect Doug Zucker, I conclude that the San Francisco Law
23 Library requires at least 30,000-35,000 gross square feet of space to house the requisite collections,
24 services and facilities described above. The collections, facilities and services incorporated in Mr.
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26 ¹³ See *id.*

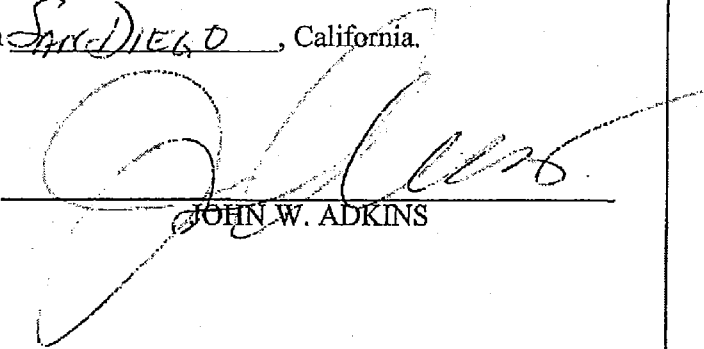
27 ¹⁴ See AALL Ethical Principles 1 (April 1999); AALL Government Relations Policy at 3 (Revised
28 July 2011).

¹⁵ See AALL Government Relations Policy at 3.

1 Zucker's test fit are necessary and appropriate, and conform to the standards outlined above and to
2 the *California County Law Library Space Recommendations* issued by the Council of California
3 County Law Librarians.¹⁶ With less than 30,000 gross square feet, valuable core components of the
4 Library's programming and facilities would be lost, preventing the Library from fulfilling its
5 mission and rendering it substandard under industry guidelines and in comparison to comparable
6 county law libraries, such as Alameda, Orange and San Diego. The Library's current facilities in
7 the Veterans Building are inadequate in terms of size, facilities, and temperature and lighting
8 conditions.

9 I declare under penalty of perjury under the laws of the State of California that the foregoing
10 is true and correct.

11 Executed this ^{10th} day of March, 2013, in SAN DIEGO, California.

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JOHN W. ADKINS

¹⁶ While instructive, the CCCLL Recommendations should be considered a *minimum* standard. See CCCLL Recommendations at 10 ("Factors such as population, number of employees, collection size and format, and the extent of community services or programs may require the facility have additional space").

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SAN FRANCISCO LAW LIBRARY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN FRANCISCO
10 UNLIMITED JURISDICTION

11 THE SAN FRANCISCO LAW LIBRARY,
12 Petitioner and Plaintiff,

13 v.

14 CITY AND COUNTY OF SAN
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15 CAPACITY AS CITY ADMINISTRATOR;
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17 PERFORMING ARTS CENTER BOARD OF
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19 EDWIN M. LEE, MAYOR; MAJOR
GENERAL J. MICHAEL MYATT (RET.);
20 WILKES BASHFORD; NANCY H.
BECHTLE; BELVA DAVIS; THOMAS E.
21 HORN; CLAUDE M. JARMAN, JR.; MRS.
GEORGE R. MOSCONE; PAUL F. PELOSI;
22 CHARLOTTE MAILLIARD SHULTZ;
JAMES W. STAFFORD; DIANE B.
23 WILSEY; and DOES 1 THROUGH 15,

24 Respondents and Defendants.

Case No.: CPF-13-512769

**EXPERT WITNESS DECLARATION OF
MARYRUTH STORER IN SUPPORT OF
MOTION FOR ISSUANCE OF
PEREMPTORY WRIT OF MANDATE
AND FOR PRELIMINARY INJUNCTION**

1 I, Maryruth Storer, declare as follows:

2 1. I have been the Director of the Orange County Public Law Library for nearly 25
3 years, since 1988. Except as otherwise stated, the statements made in this declaration are based on
4 my personal knowledge and, if called upon to do so, I could and would testify competently to the
5 truth of the matters stated.

6 2. I received a Bachelor of Arts degree in History, with High Honors, from Portland
7 State University in 1974, and a Juris Doctorate degree from the University of Oregon in 1977. I
8 received a Master of Law Librarianship degree from the University of Washington in 1978. I was
9 admitted to Oregon State Bar that same year. I served as Associate Law Librarian at the University
10 of Tennessee Law Library for one year, and then as the Law Library Manager at O'Melveny &
11 Myers in Los Angeles for nine years. I was appointed Director of the Orange County Law Library
12 in 1988.

13 3. Throughout my career, I have been a member of and actively involved in the
14 American Association of Law Libraries ("AALL"), including serving as: Member of the Bylaws
15 and Resolutions Committee (2009-2012); Chair of the Bylaws and Resolutions Committee (2011-
16 2012); Member of the Research and Publications Committee (2008-2009); Member of the
17 Washington Affairs Office Special Committee (2008-2009); Member of the Publications
18 Committee (2007-2008); Member of the Annual Meeting Local Advisory Committee (2007-2008);
19 Member of the Government Relations Committee (2005-2007); Member of the Nominations
20 Committee (2003-2004); Chair of the Biennial Salary Survey Task Force (2002-2003); Executive
21 Board Member (1999-2002); Member of the Annual Meeting Local Advisory Committee (1997-
22 1998); Member of the Awards Committee (1994-1996); Chair of the Awards Committee (1995-
23 1996); Member of the Special Committee on National Chapter Relations (1991-1992); Member of
24 the Constitution and Bylaws Committee (1990-1992); Member of the Council of Chapter Presidents
25 (1986-1988); Chair of the Council of Chapter Presidents (1987-1988); Council of Chapter
26 Presidents National Legal Resources Committee (1986-1987); Member of the Membership
27 Committee (1983-1986); Chair of the Membership Committee (1984-1985); Member of the
28 Legislation and Legal Developments Committee (1981-1983); Member of the Exchange of

1 Duplicates Committee (1979-1981); Member of the AALL State, Court & County Law Libraries
2 Special Interest Section ("SCCLL") (1988-present); Member of the SCCLL Bylaws Committee
3 (2003-2004); Chair of the SCCLL Bylaws Committee (2012-2013); Chair of the SCCLL
4 Membership and Mentoring Committee (2010-2011); Member of the SCCLL Membership and
5 Mentoring Committee (2010-2012); Member of the SCCLL Education Committee (2009-2010);
6 Chair of the SCCLL Appellate Court Standards Committee (2004-2005); Member of the SCCLL
7 Awards Committee (1993-1997); Chair of the SCCLL Awards Committee (1997-1998); Chair of
8 the SCCLL Interlibrary Communications Committee (1989-1990). The AALL is a non-profit,
9 professional organization devoted to improving the operation of law libraries and the distribution of
10 and access to legal information. AALL members work in academic, private, state, court and county
11 libraries, serving government officials, the bench, the bar, legal scholars and the public.

12 4. I have been a member of the Council of California County Law Librarians since
13 1988, and served as President (1994-1996) and Treasurer (1990-1994). I have been a member of
14 the Southern California Association of Law Libraries since 1980, and served as President (1986-
15 1987) and Treasurer (1984-1985). I also served on the Advisory Council (2005-2008, 1996-2001)
16 and Executive Board (2001-2005) of the Law Library Microforms Consortium. Since 2005, I have
17 served on the Executive Board of the California Library Group, a not-for-profit membership
18 cooperative serving libraries and information organizations in California.

19 5. I have served as Director of the OCPLL since 1988. As Director of the OCPLL, I
20 am familiar with the size and nature of its facilities and its print collection. The OCPLL occupies
21 47,454 gross square feet. A true and correct copy of the OCPLL's floor plan is attached hereto as
22 Exhibit A. The OCPLL is a full-service public county law library, the purpose of which is to
23 provide reference materials and research services on state, federal and international statutes, case
24 law and supporting materials to the general public and legal community of Orange County. The
25 OCPLL's print collection contains approximately 162,784 volumes as of June 30, 2012. Based on
26 my education, my experience working in and managing law libraries, and my experience with
27 related professional organizations and programs, I am familiar with the industry standards for a full-
28

1 service public county law library and understand what collections, facilities and services are
2 necessary.

3 6. In preparing this declaration, I reviewed the following materials:

4 a. Information about the San Francisco Law Library and its staff, patrons,
5 collections, services and policies: San Francisco Law Library 2010 Efficiency Plan - Strategic Plan,
6 Goals, Mission and Impact; San Francisco Law Library 2011 Annual Report; San Francisco Law
7 Library 2012 Annual Report; San Francisco Law Library - Staff by Function/FTE (revised January
8 2013); Gate Count Survey (2012-2013); San Francisco Law Library Collection Data Worksheet
9 2012-2013; San Francisco Law Library Retention Policy (revised Feb. 7, 2011); San Francisco
10 Law Library Spaces by Function (Jan. 24, 2012); San Francisco Law Library Layout Adjacencies
11 by Function (March 30, 2011; revised in part January 2013); San Francisco Law Library 2013 Law
12 Firm Premium Services Program; and the San Francisco Law Library budget.

13 b. Various space studies, reports and analyses assessing the San Francisco Law
14 Library's space needs: *San Francisco Law Library Space Needs Assessment 2001-2055*, prepared
15 by Stockton Associates (Jul. 26, 2002); *Review of Options for Sizing and Location of the San*
16 *Francisco Law Library*, prepared by the Office of the Controller of the City and County of San
17 Francisco (June 1, 2010); *Requirements for a Permanent Law Library*, prepared by the San
18 Francisco Law Library (Sept. 13, 2010); Memorandum from the City Controller to the Mayor (Dec.
19 1, 2010); Memorandum from San Francisco Law Library Director Marcia Bell to the City
20 Controller (Dec. 15, 2010); Letter from Architect Felicia Cleper-Borkovi to Marcia Bell regarding
21 the San Francisco Law Library's space needs (April 22, 2011); and *Save the Law Library*, prepared
22 in part by the architectural firm NC2 (2012).

23 c. County Law Library Task Force Report (May 2005); Council of California
24 County Law Librarians, *California County Law Library Space Recommendations* (September
25 2009); American Association of Law Libraries, *County Public Law Library Standards* (April 2009);
26 American Association of Law Libraries, *Ethical Principles* (April 5, 1999); and American
27 Association of Law Libraries, *Government Relations Policy* (revised July 2011). The AALL and
28 the CCCLL are among the largest and most well respected professional organizations focused on

1 law libraries and law librarians. The standards, guidelines, principles and recommendations
2 promulgated by the AALL and the CCCLL reflect industry standards and are a widely used and
3 respected source of information concerning law library requirements.

4 d. Information about comparable county law libraries other than the Orange
5 County Public Law Library, including the 2012 California Library Statistics (available at
6 <http://www.library.ca.gov/lds/librarystats.html>), and the websites for the Alameda County Law
7 Library (<http://www.co.alameda.ca.us/law/>), the Los Angeles County Law Library
8 (<http://www.lalawlibrary.org/default.aspx>), and the San Diego County Public Law Library
9 (<http://sandiegolawlibrary.org/>).

10 e. The San Francisco Law Library's Petition for Writ of Mandate and
11 Complaint for Injunctive and Declaratory Relief (filed Feb. 6, 2013).

12 f. The San Francisco Board of Supervisors Resolution No. 09-04, File No.
13 031929 (Jan. 16, 2004).

14 g. The test fit for 1200 Van Ness prepared by Architect Doug Zucker.

15 h. The draft declaration of Ruth Geos, the San Francisco Law Library's Head
16 Reference Librarian.

17 7. According to its website, the mission of the San Francisco Law Library (the
18 "Library") is "to provide the judiciary, the public, the bar, and city, county, and state officials free
19 access and use of legal reference materials in order that they may conduct their legal affairs and
20 preserve their legal rights."¹ In order to fulfill this mission and meet the industry standards for a
21 public county law library, the Library must have sufficient space to provide the following
22 collections, facilities and services:

23 8. **Functional Space.** The Library's functional space should be comprised of public
24 space, administrative space, staff space, special use areas and stacks.² **Public areas** should include:

25
26 ¹ <http://www.sflawlibrary.org/index.aspx?page=8>.

27 ² See generally Council of California County Law Librarians ("CCCLL"), *California County Law*
28 *Library Space Recommendations* 3-9 (September 2009); American Association of Law Libraries
("AALL"), *County Public Law Library Standards* 2-6 (April 2009).

1 entry and security; an information and circulation desk; casual seating; user seating and workspaces;
2 a document processing center with public copy machines and supplies; public computer terminals
3 and a public printer; a self-help area with space for children; the reference desk, space for
4 confidential reference interviews and an office for the head reference librarian; a reserve collection
5 room; and public restrooms.³ *Administrative space* should include: a reception area and offices for
6 the Library director and assistant director; a file and supply room with workspace for administrative
7 support; and a conference room or board room.⁴ *Staff areas* should include space for technical
8 services, a staff break room, storage and janitorial space.⁵ *Special use areas* should include
9 conference rooms, seminar/community rooms and an electronic classroom, a rare book room, a
10 server room and kitchen space.⁶

11 9. *Print Collection.* To meet the needs of the San Francisco community and the
12 standards for a full-service public law library, the Library must maintain a comprehensive collection
13 that includes state, local and federal laws, ordinances, regulations and cases; legal forms; self-help
14 materials; legal treatises, texts and practice manuals; legal periodicals; legal finding aids and
15 reference tools; and legal databases.⁷ The Library must archive and retain precedential material,
16 and continually add materials as the law changes and new resources are developed, and discard
17 materials that are no longer relevant or current. The Library's collection and Retention Policy⁸
18 conform to the *County Public Law Library Standards* issued by the American Association of Law
19 Libraries, but also—and perhaps more importantly—meets the needs of the community it serves.
20 The AALL Standards are instructive, but should not be used to limit the scope or development of a
21 collection that meets or exceeds the standards.⁹

22
23 ³ See CCCLL Recommendations at 3-7; AALL Standards ¶¶IV-V.

24 ⁴ See CCCLL Recommendations at 5-9.

25 ⁵ See *id.* at 7-9.

26 ⁶ See *id.* at 3-9.

27 ⁷ See AALL Standards ¶¶VI-VII.

28 ⁸ See San Francisco Law Library Retention Policy (revised Feb. 7, 2011).

⁹ See AALL Standards ¶VII cmt.

1 10. *Archival and Rare Books.* Major public law libraries keep older superseded legal
2 materials; they are used when researching to determine the law applying at a specific past date in
3 time. In addition to these standard superseded legal materials, the San Francisco Law Library owns
4 a valuable collection of rare books. These centuries-old books must be stored in environmentally
5 controlled preservation conditions, so that they may continue to be used and studied. These legal
6 historical treasures are an asset of the San Francisco Law Library and should be available to
7 scholars and researchers under controlled conditions.

8 11. *Electronic and Online Resources.* As digital resources increase, more public
9 computers are required. As a public county law library, the Library must have sufficient computers,
10 printers, copy machines, wireless internet access and wired work stations to make online resources
11 accessible and useful. Digital media is an important resource that saves space, but it does not
12 eliminate the need for print legal materials.¹⁰ There are large gaps in online sources of essential
13 legal information that must be provided in print materials, and many archival materials are not
14 available electronically and likely will not be retrospectively digitized, *e.g.*, while some random
15 older municipal codes might be digitized, there is a lack of comprehensiveness in available
16 materials. Electronic resources require additional support from library professionals because it
17 often is necessary to instruct, train and guide patrons in the use of these tools. In addition, online
18 resources can be inaccurate or out-of-date; public law libraries ensure that patrons can find accurate
19 and current materials, whether online or in print. Print collections also are necessary to ensure
20 equal access for all, not just those who are able to use electronic resources and can afford the cost of
21 printing research results, but also those who cannot.

22 12. *Reference Services, Educational Programs and Trainings.* Law libraries have a
23 different function than in the past. In addition to providing legal resources, public law libraries now
24 have an increased assistance and training function. Both attorney and non-attorney patrons require
25 reference assistance to navigate the law and find the information and resources they need. Non-
26 lawyers typically require more assistance because they are not familiar with the legal process, which

27
28 ¹⁰ See CCCLL Recommendations at 6; AALL Standards ¶VII cmt.

1 can be extremely complex and confusing. Many non-attorney patrons are self-represented litigants
2 using the Library for civil litigation matters, but a significant number use the Library for other
3 purposes, such as drafting their own contracts and wills, organizing businesses, managing rental
4 property and even completing academic assignments. In addition, both attorneys and non-attorneys
5 use the Library to prepare for criminal proceedings, trials and appeals.¹¹ Reference staff can help
6 attorneys and non-attorneys alike find relevant and current legal materials. It would be a severe
7 hardship for the many individuals and organizations that rely on the Library for access to legal
8 resources if the Library were to close, even for a short period of time.

9 13. The Library also should provide educational seminars and programs for attorneys
10 and the public, including substantive trainings focusing on a specific area of law, trainings
11 regarding court procedures and advocacy, and legal research trainings. These trainings are
12 invaluable. Without proper instruction, online legal databases such as Lexis and Westlaw are
13 difficult to use, and large portions of the public are not aware of free legal resources available on the
14 internet. Programs that focus on a particular area of law or on helping lay persons navigate the legal
15 system are also an integral part of the services a public law library must provide. Seminars such as
16 these and legal research trainings are an efficient way to address knowledge gaps and answer
17 questions about a specific topic, as well as provide patrons and the public with information and
18 tools to protect their rights, represent their clients and/or manage their affairs effectively.
19 Accordingly, the Library needs at least one large seminar room and preferably an additional
20 electronic classroom for online research trainings.¹²

21 14. A public county law library should, and with adequate space, resources and staff, the
22 San Francisco Law Library also could, provide trainings for public library staff who routinely
23 receive law-related questions, court clerks, paralegals and legal secretaries, and partner with self-
24 help centers at the state and federal courts.

27 ¹¹ See County Law Library Task Force Report, at 8 & n.21 (May 2005).

28 ¹² See CCCLL Recommendations at 5.

1 15. *Other services.* The Library must also provide document delivery and circulation
2 services, both of which require sufficient personnel and staff workspace, and conference and
3 meeting rooms. Conference rooms are particularly important for solo practitioners and other
4 patrons who may be working with others or require facilities for a meeting. The Library should
5 offer private areas for confidential meetings and to allow patrons to conduct conversations without
6 disturbing others.¹³

7 16. The provision of legal information is fundamental to a democratic society and
8 essential for its people to protect their rights and handle their legal affairs.¹⁴ The Library's
9 programs and services provide the people of San Francisco with free access to legal information and
10 specialized reference assistance in the use of those materials.¹⁵ As a public county law library, the
11 Library is already an extremely valuable asset to the community, but with more space, it could do
12 even more. For example, the Library could expand its vital role in helping low income individuals
13 resolve high stakes legal issues, providing resources and support for small business, easing the
14 burden on courts handling more and more cases with self-represented litigants, and providing free
15 educational programming. Such expansion could include partnerships with the bar, the courts
16 and/or legal aid organizations to best serve the San Francisco community. Usage could increase
17 significantly in a more suitable and permanent location, and with the development of additional
18 community programs. But without adequate space for the requisite collections, facilities and
19 services, the Library will be unable to provide essential services and as a result its role will be
20 marginalized, to the detriment of the public, the courts and the legal community.

21 17. Based on the requirements and standards for county public law libraries and the test
22 fit for 1200 Van Ness prepared by Architect Doug Zucker, I conclude that the San Francisco Law
23 Library requires at least 30,000-35,000 gross square feet of space to house the requisite collections,
24 services and facilities described above. The collections, facilities and services incorporated in Mr.

25 _____
26 ¹³ See *id.*

27 ¹⁴ See AALL, *Ethical Principles* 1 (April 1999); AALL, *Government Relations Policy* at 3 (revised
28 July 2011).

¹⁵ See AALL *Government Relations Policy* at 3.

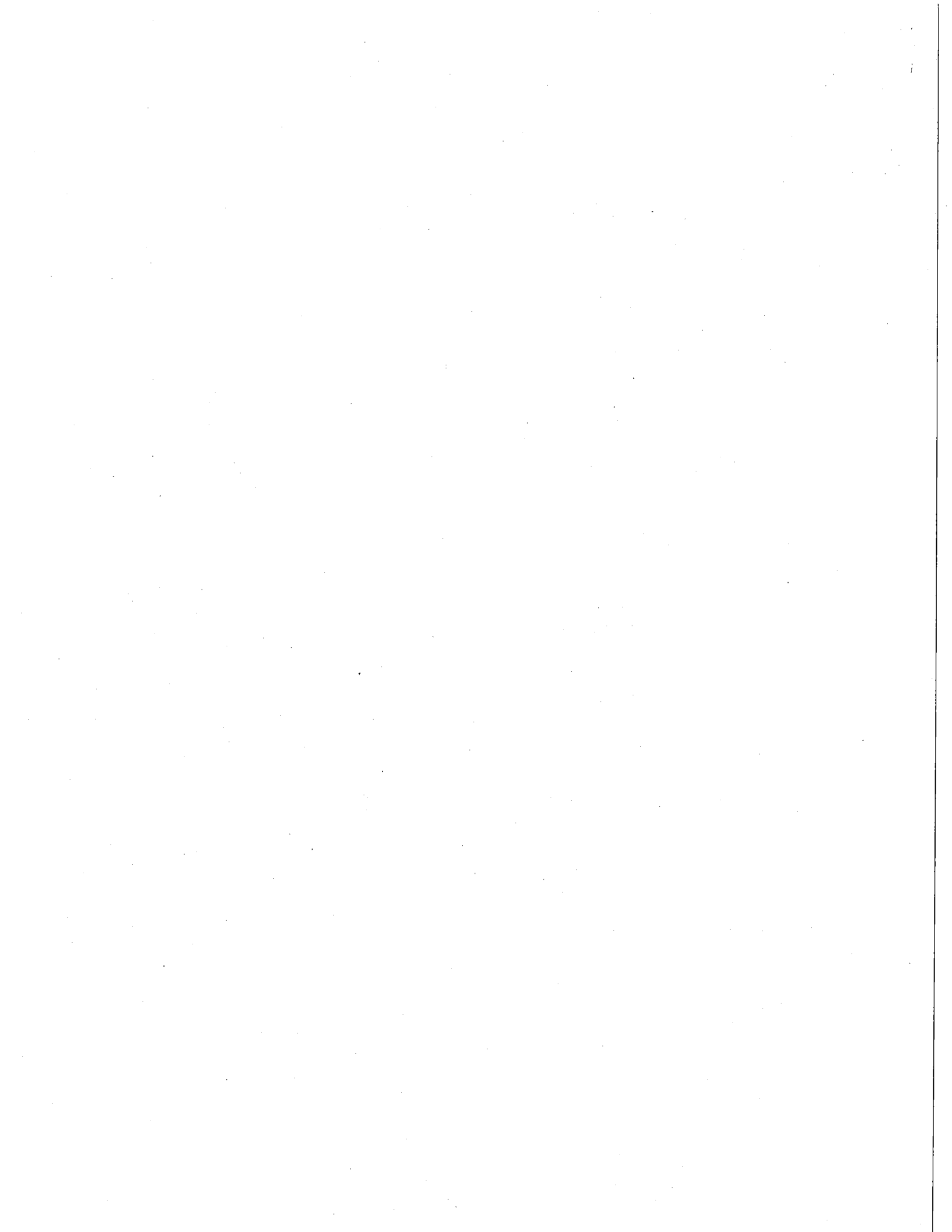
1 Zucker's test fit are necessary and appropriate, and conform to the standards outlined above and to
2 the *California County Law Library Space Recommendations* issued by the Council of California
3 County Law Librarians.¹⁶ With less than 30,000 gross square feet, valuable core components of the
4 Library's programming and facilities would be lost, preventing the Library from fulfilling its
5 mission and rendering it substandard under industry guidelines and in comparison to comparable
6 county law libraries, such as Alameda, Orange and San Diego. The Library's current facilities in
7 the Veterans Building are inadequate in terms of size, facilities, and temperature and lighting
8 conditions.

9 I declare under penalty of perjury under the laws of the State of California that the foregoing
10 is true and correct.

11 Executed this 8th day of March, 2013, in Santa Ana, California.

12
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14 
15 _____
16 MARYRUTH STORER
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27 ¹⁶ While instructive, the CCCLL Recommendations should be considered a *minimum* standard. See
28 CCCLL Recommendations at 10 ("Factors such as population, number of employees, collection size and format, and the extent of community services or programs may require the facility have additional space").



Young, Victor

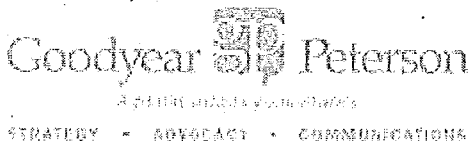
From: Charlie Goodyear [charlie@goodyearpeterson.com]
Sent: Wednesday, March 20, 2013 10:47 AM
To: Farrell, Mark; Wiener, Scott; Breed, London; Mar, Eric (DPH); Avalos, John
Cc: Young, Victor; Stefani, Catherine; Taylor, Adam; Brown, Vallie; Redondiez, Raquel; Pagoulatos, Nickolas
Subject: SF Law Library
Attachments: image001.png; image002.jpg; 03.pdf; 09.pdf
Importance: High

Supervisors,

Please see attached and pasted below a copy of the press release and legal filings we distributed to the media last week. I am sending them today as they may be relevant to your discussion next week at Budget & Finance regarding a resolution submitted by the Mayor's Office to lease 20,000-square-feet of space at 1200 Van Ness. This is not enough space for the Library and indeed even if the city authorizes a lease of this space, the Library may choose not to occupy it. Please let me know if I can answer any questions.

Regards,

Charles Goodyear
Principal
Goodyear-Peterson, LLC
100 Pine Street, Suite 1525
San Francisco, CA 94111
Cell: (415) 265-1545
Office: (415) 402-0222
Direct: (415) 362-6150
Fax: (415) 276-5775
Email: charlie@goodyearpeterson.com
Web: www.goodyearpeterson.com



For Immediate Release

Media Contact: Charles Goodyear
(415) 265-1545 or (415) 362-6150

San Francisco Law Library Seeks Court Order to Avoid City Eviction Action
Motion Seeks to Keep Library in Current Location until New Space Secured

San Francisco, Calif. (March 14, 2013) – Counsel for the San Francisco Law Library have filed a motion asking the Superior Court to compel the City to provide adequate housing for the Library, along with a motion for a preliminary injunction seeking to block the City of San Francisco from evicting the Library from its current location until a permanent and adequate space is identified.

The motion for issuance of a writ of mandate details the refusal by city officials to fund 30,000-square-feet of space at 1200 Van Ness Avenue – a site the Library had identified as available. After the Law Library filed its suit, the City has now come forward with a proposed resolution to support rental of 20,000 square feet for the Law Library, but according to papers filed by the Library on Wednesday, the Library requires at least 30,000-35,000 square feet to house the essential collections, facilities and services of a full service county public law library. That amount of space is currently available at 1200 Van Ness.

“The City has abused its discretion in refusing to fund even this bare minimum amount of space,” according to the motion filed by Arnold & Porter, LLP. “The City has also abused its discretion in refusing to pay for the cost of necessary furniture, fixtures and equipment, moving expenses and the like. The Court should issue a writ of mandate to correct these abuses of discretion and allow the Library to move into an appropriate permanent location instead of being closed down through eviction.”

California’s oldest public county law library sued the City and County of San Francisco last month, citing a failure by city officials for nearly 20 years to adequately provide space for the Library as required by the City Charter. The Library is facing eviction by the City from its current location at the Veterans Building. That structure is scheduled to close in May for retrofitting and renovation.

“While we continue to work to find a solution and a consensus with the city that can end this litigation, we nevertheless must take the appropriate legal steps to see that the Library is not displaced and that the public continues to have access to our collection and resources,” said Kurt Melchior, a partner at Nossaman, LLP; and President of the Law Library Board of Directors. “So many of our city officials have gone to law school and worked as lawyers – from our Mayor to numerous members of the Board of Supervisors. The value of our Library should be obvious to the City of San Francisco.”

As court papers filed by the Library note, in 2004 the San Francisco Board of Supervisors passed a resolution declaring that a “full-service law library and justice center facility would promote access to justice by bringing together in one facility the legal resources and services needed by the people of San Francisco to enable them to preserve their rights and adjudicate their claims.”

The Board further stated that the Library is “necessary to serve the people of San Francisco by providing access to local, state and federal legal information resources and services in order that they may preserve their rights and conduct their legal affairs.”

If the Library is successful in its motion for a preliminary injunction, one consequence may be the delay of the retrofit of the Veterans Building. A hearing on both motions is scheduled for April 5, 2013.

“The record clearly shows the City of San Francisco understood in 2004 the need for and public benefit from the Library,” said Mr. Melchior. “That same understanding is lacking today. City officials are on the wrong side of the law and now they are needlessly jeopardizing the rebuild of another city institution – the Veterans Building. We have proposed an adequate solution and a compromise – it’s time for the City to live up to its obligations.”

For more information, visit www.sflawlibrary.org

OFFICE OF THE MAYOR
SAN FRANCISCO



EDWIN M. LEE
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors
FROM: *pc* Mayor Edwin M. Lee *EL*
RE: Lease 1200 Van Ness Avenue, owned by Van Ness Post Center, LLC, for San Francisco Law Library
DATE: March 5, 2013

Attached for introduction to the Board of Supervisors is the resolution finding that 20,000 net rentable square feet is suitable and sufficient for the San Francisco Law Library, authorizing the Director of Property to 1) enter into a lease with Van Ness Post Center, LLC for the San Francisco Law Library at 1200 Van Ness Avenue; 2) finding that the proposed relocation of the San Francisco Law Library to such space is in conformance with the City's General Plan and the priority policies of Planning Code Section 101.1; and 3) authorizing the Director of Property to find alternative comparable space if a lease with Van Ness Post Center, LLC cannot be finalized.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2013 MAR -5 PM 2:31
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FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
(S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors
Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Van Ness Post Center LLC	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
Van Ness Post Center LLC is held under Jade Holdings LLC which in turn is owned by Maria Fang Family Trust and Joseph Fang Family Trust	
Contractor address: 23 Geary Street, Suite 510, San Francisco, CA 94108	
Date that contract was approved: <i>Subject to Board of Supervisor and Mayor's Approval</i>	Amount of contract: \$720,000 per year for five years
Describe the nature of the contract that was approved: Lease	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed