

1 [Real Property Lease, Sublease, and Transfer Agreement Amendment - Court Facility - 575
2 Polk Street]

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4 **Resolution: 1) approving a lease of approximately 9,000 square feet at 575 Polk Street**
5 **with the Mattison Family Trust for an initial base rent of \$25,597 per month; 2) a**
6 **sublease of 575 Polk Street premises with the State of California, Judicial Council of**
7 **California - Administrative Office of the Courts for use by the San Francisco Superior**
8 **Court; 3) an amendment to the transfer agreement for the court facility at 575 Polk**
9 **Street; and 4) authorizing other actions in furtherance of this Resolution.**

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11 WHEREAS, In 1991, the City leased approximately 9,000 square feet of ground floor
12 space at 575 Polk Street for additional Superior Court court rooms and administrative offices
13 (Polk Street Court Facility) under a lease dated as of December 3, 1990 (the "Polk Street
14 Lease"); and,

15 WHEREAS, In 2001, the Polk Street Lease term was extended through June 30, 2011
16 pursuant to Board of Supervisors Resolution 297-01; and,

17 WHEREAS, In 2002, the State of California passed the Trial Court Facilities Act of
18 2002, as set forth in California Government Code Section 70301 et seq. (the "Act"); and,

19 WHEREAS, The Act required California cities and counties to transfer their existing
20 court facilities to the State's Administrative Office of the Courts (the "AOC") and to make
21 ongoing, fixed county facility payments (the "CFP") to the State of California after such
22 transfer, with AOC taking over the maintenance and management responsibilities for the
23 transferred court facilities; and,

24 WHEREAS, The Act prevents City from using the Courthouse Facility Construction
25 Fund (the "CCF"), which is funded with a portion of parking ticket surcharges, filing fees, traffic

1 fines and interest earnings, to make CFP payments, but it permits City to use the CCF to
2 make rental payments for court facilities leased by City for use by the AOC and the Superior
3 Court of San Francisco for one additional extension period; and,

4 WHEREAS, In 2009, the City's Controller's Office and the AOC established the CFP for
5 the Polk Street Court Facility as \$322,190.00 per year (the "Polk Street CFP"); and,

6 WHEREAS, On December 31 2009, pursuant to Board of Supervisor's Ordinance 249-
7 08, the City transferred City's maintenance and management responsibilities for the Polk
8 Street Court Facility to the AOC under a Transfer Agreement between City and AOC (the
9 "Polk Street Transfer Agreement"), subject to City's continuing obligation to remain as tenant
10 under the Polk Street Lease; and,

11 WHEREAS, The Act and the Polk Street Transfer Agreement required City to begin its
12 payment in perpetuity of the Polk Street CFP following such transfer, but the Polk Street
13 Transfer Agreement allowed City to reduce the Polk Street CFP by an amount equal to the
14 Polk Street Lease rent payments (only until the Polk Street Lease expired on July 31, 2011
15 with one extension), and City uses the CCF for such rent payments; and,

16 WHEREAS, The Polk Street Lease expired on June 30, 2011, and AOC requested that
17 City enter into a new lease for the Polk Street Court Facility with the Mattison Family Trust
18 (the "Landlord") and sublease the Polk Street Court Facility to AOC for use by the AOC and
19 the Superior Court of San Francisco; and,

20 WHEREAS, City negotiated with Landlord for a ten year lease with a five year
21 extension option for the Polk Street Court Facility, which has an initial base rent of \$25,597.00
22 per month (approximately \$2.84 per sq. ft. monthly), requires City to pay its prorata share of
23 real estate taxes and operating expenses, and its own costs for utilities, refuse removal,
24 security and other typical tenant costs, on the terms and conditions set forth in the form of the
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1 lease (the "New Lease") on file with the Clerk of the Board of Supervisors in File
2 No. _____, which is incorporated herein by reference; and,

3 WHEREAS, City negotiated with AOC for a ten year sublease with a five year
4 extension option for the Polk Street Court Facility, which does not require AOC to pay
5 sublease rent if City is able to use the CCF for its New Lease rent payments, all on the terms
6 and conditions set forth in the form of sublease (the "Sublease") on file with the Clerk of the
7 Board of Supervisors in File No. _____, which is incorporated herein by reference; and,

8 WHEREAS, AOC has agreed to amend the Polk Street Transfer Agreement to allow
9 City to reduce the amount of the Polk Street CFP payable during the term of the New Lease
10 by an amount equal to the New Lease rent payments made by City, and a copy of the
11 proposed amendment (the "Transfer Agreement Amendment") is on file with the Clerk of the
12 Board of Supervisors in File No. _____ and incorporated herein by reference; and,

13 WHEREAS, By structuring the transaction with the New Lease, the Sublease, and the
14 Transfer Agreement Amendment, the City can continue to use the CCF to make rent
15 payments under the New Lease and reduce the amount of the Polk Street CFP payable
16 during the term of New Lease by an amount equal to such New Lease rent payments – thus
17 saving the City in excess of \$300,000 per year; now, therefore, be it

18 RESOLVED, That the Director of Property is hereby authorized to enter into the New
19 Lease, the Sublease, and the Transfer Agreement Amendment, and to take all actions under
20 such documents, including the exercise of the New Lease extension option and any
21 amendments or modifications to such documents (including without limitation, the exhibits),
22 that the Director of Property determines, in consultation with the City Attorney, are in the best
23 interest of the City, do not materially increase the rent or other obligations or liabilities of the
24 City or materially reduce the benefits to City, are necessary or advisable to effectuate the
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1 purposes of the New Lease, the Sublease, the Transfer Agreement Amendment, and this
2 Resolution, and are in compliance with all applicable laws, including City's Charter; and, be it

3 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
4 with respect to the New Lease, the Sublease and the Transfer Agreement Amendment are
5 hereby approved, confirmed and ratified; and, be it

6 FURTHER RESOLVED, That the New Lease shall be subject to certification as to
7 funds by the Controller, pursuant to Section 3.105 of the Charter.

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10 _____
11 Controller

12 RECOMMENDED:

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16 Acting Director of Property
17 Real Estate Division
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