

1 [Ordinance Authorizing Certificates of Participation—Rehabilitation Detention Facility Project
2 Acquisition of Real Property—Not to Exceed \$215-16,750,000]

3 **Ordinance authorizing the execution and delivery of Certificates of Participation on a**
4 **tax-exempt or taxable basis evidencing and representing an aggregate principal**
5 **amount of not to exceed \$21516,750,000 to finance the costs of acquisition, construction**
6 **and installation of certain additions and improvements for a rehabilitation detention facility to**
7 **be located on real property located within the City; authorizing the issuance of**
8 **commercial paper notes in advance of the delivery of the Certificates; approving the**
9 **form of Trust Agreement between the City and County of San Francisco and the**
10 **Trustee (including certain indemnities contained therein); authorizing the selection of**
11 **the Trustee by the Director of Public Finance; approving respective forms of a Property**
12 **Lease and a Lease Agreement, each between the City and the Trustee for the lease and**
13 **lease back of all or a portion of certain hospital property and facilities; approving the**
14 **forms of Purchase Contract, Official Notice of Sale and Notice of Intention to Sell**
15 **Certificates; directing the publication of the Notice of Intention to Sell Certificates;**
16 **approving the form of the Preliminary Official Statement and the form and execution of**
17 **the Official Statement relating to the sale of the Certificates; approving the form of the**
18 **Continuing Disclosure Certificate; granting general authority to City officials to take**
19 **necessary actions in connection with the authorization, execution, sale and delivery of**
20 **the Certificates; approving modifications to documents and agreements; declaring the**
21 **City's intent to reimburse certain expenditures; and ratifying previous actions taken in**
22 **connection therewith.**

23 **NOTE: Unchanged Code text and uncodified text** are in plain Arial font.
24 **Additions to Codes** are in *single-underline italics Times New Roman font*.
25 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.

Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings. The Board hereby finds and determines as follows:

A. The Board of Supervisors (the “Board of Supervisors” or the “Board”) of the City and County of San Francisco (the “City”) desires to finance the cost of land acquisition, construction and installation of certain additions and improvements properties adjacent to replace the maximum security County jails currently located in the City’s the Hall of Justice Building for the purpose of facilitating the seismic renovation of that facility (the “Project Site”) through the execution and delivery of one or more series of certificates of participation (the “Certificates”); and

B. The Certificates will be executed and delivered in one or more series on a tax-exempt and/or taxable basis pursuant to a trust agreement (the “Trust Agreement”) between the City and the trustee to be named therein (the “Trustee”); and

C. In advance of the execution and delivery of the Certificates the Board desires to authorize the issuance of commercial paper notes under the City’s commercial paper program to fund costs of the acquisition of the ~~Rehabilitation Detention Facility~~ Project Site on an interim basis until the Certificates are executed and delivered to provide permanent financing on a long-term basis; and

D. In connection with the execution and delivery of the Certificates, the Board desires to cause the execution of a Property Lease (the “Property Lease”), pursuant to which the City will lease to the Trustee a portion of Lot 001, Block 4154, known as 1001 Potrero Avenue, San Francisco (the “Leased Property”), and a Lease Agreement (the “Lease Agreement”), pursuant to which the Trustee will lease the Leased Property back to the City; and

1 E. The Board has been presented with the form of certain documents and
2 agreements referred to herein relating to the Certificates, and the Board has examined and is
3 approving each such document and agreement and desires to authorize the execution of such
4 documents and agreements and the consummation of such financing; and

5 F. The City has paid and expects to pay certain expenditures in connection with the
6 ~~Rehabilitation Detention Facility~~ Project Site to be financed by the Certificates prior to the
7 execution and delivery of the Certificates, and the City intends to reimburse itself and to pay
8 third parties for such prior expenditures from the proceeds of the Certificates; and

9 G. Section 1.150-2 of the Treasury Regulations promulgated under the Internal
10 Revenue Code of 1986 (the "Reimbursement Regulations") requires the City to declare its
11 reasonable official intent to reimburse prior expenditures with the proceeds of a subsequent
12 borrowing; and

13 H. The Reimbursement Regulations require that any reimbursement allocation of
14 proceeds of the Certificates to be made with respect to expenditures incurred prior to the
15 execution and delivery of the Certificates will occur not later than eighteen (18) months after
16 the later of (i) the date on which the expenditure is paid or (ii) the date on which the facilities
17 are placed in service, but in no event later than three (3) years after the expenditure is paid;

18 I. The adoption of this Ordinance shall constitute authorization of the Certificates
19 within the meaning of Section 864 of the California Code of Civil Procedure and any Validation
20 Act that is effective after this Ordinance takes effect

21 Section 2. Conditions Precedent. All conditions, things and acts required by law to
22 exist, to happen and to be performed precedent to and as a condition of the execution and
23 delivery of the Property Lease, the Lease Agreement, the Trust Agreement and the
24 Certificates will exist, have happened and have been performed in due time, form and manner
25 in accordance with applicable law, and the City shall be authorized pursuant to its Charter and

1 other applicable law to execute and deliver the Property Lease, the Lease Agreement, the
2 Continuing Disclosure Certificate, the Trust Agreement and, as applicable, the Purchase
3 Contract and to cause the execution and delivery of the Certificates in the manner and form
4 provided in this Ordinance; and

5 Section 3. Authorization of the Certificates. The Board hereby authorizes and
6 approves the execution and delivery of the Certificates in accordance with the Trust
7 Agreement. The Board hereby approves the issuance of commercial paper notes from time to
8 time to fund certain interim costs relating to the acquisition of the ~~Rehabilitation Detention~~
9 ~~Facility Project~~ Site. The proceeds of the Certificates will be used to fund (i) costs of the
10 acquisition of the ~~Rehabilitation Detention Facility Project~~ Site, including repayment of
11 commercial paper notes and interest thereon issued for such purpose; (ii) a debt service or
12 other similar reserve, as appropriate; (iii) capitalized interest, if any; and (iv) costs of issuance
13 of the Certificates. The Certificates shall be designated as “Certificates of Participation
14 (~~Rehabilitation Detention Facility Project~~ Multiple Properties),” with such other or additional
15 designation, including the year of execution and delivery, as determined by the Director of
16 Public Finance of the City or her designee, acting for and on behalf of the City Controller
17 (collectively, the “Director of Public Finance”).

18 The Certificates shall evidence an aggregate principal amount of not to exceed Sixteen
19 Million Seven Hundred and Fifty Dollars ~~Two Hundred Fifteen Million Dollars (\$215,000,000)~~
20 \$16,750,000, and shall evidence interest at a true interest cost up to but not to exceed twelve
21 percent (12%) per annum. The Certificates shall be subject to prepayment as set forth in the
22 Lease Agreement and Trust Agreement. The Director of Public Finance is hereby authorized,
23 to the extent such officer deems it necessary or advisable and financially advantageous to the
24 City, to procure credit enhancement for the Certificates, including but not limited to municipal
25 bond insurance or a debt service reserve fund surety policy.

1 The Director of Public Finance is hereby authorized, to the extent such officer deems it
2 necessary or advisable and in the interests of the City, to cause the execution and delivery of
3 the Certificates (i) with interest with respect thereto exempt or not exempt from federal income
4 tax, and (ii) under any federal tax law provisions which provide for federal grants or credits to
5 the City or to investors in lieu of the exemption of interest from federal income tax.

6 Section 4. Approval of the Trust Agreement; Authorization of the Selection of the
7 Trustee. The form of the Trust Agreement between the City and the Trustee, as presented to
8 the Board, a copy of which is on file with the Clerk, is hereby approved. The Mayor of the City
9 or his designee (collectively, the “Mayor”) or the Controller or his designee (the “Controller”) is
10 hereby authorized to execute and deliver the Trust Agreement, and the Clerk is hereby
11 authorized to attest to and affix the seal of the City on the Trust Agreement, with such
12 changes, additions and modifications as the Mayor or the Controller may make or approve in
13 accordance with Section 14 hereof.

14 The Director of Public Finance is hereby authorized to select the Trustee in accordance
15 with City policies and procedures, including but not limited to the City’s policy to provide
16 locally disadvantaged business enterprises an equal opportunity to participate in the
17 performance of all City contracts.

18 Section 5. Approval of the Property Lease. The form of the Property Lease between
19 the City and the Trustee, as presented to the Board, a copy of which is on file with the Clerk,
20 is hereby approved. The Mayor or the Controller is hereby authorized to execute and deliver
21 the Property Lease, and the Clerk is hereby authorized to attest to and affix the seal of the
22 City on the Property Lease, with such changes, additions and modifications as the Mayor or
23 the Controller may make or approve in accordance with Section 13 hereof.

24 Section 6. Approval of the Lease Agreement. The form of the Lease Agreement
25 between the City and the Trustee, as presented to the Board, a copy of which is on file with

1 the Clerk, is hereby approved. The Mayor or the Controller is hereby authorized to execute
2 and deliver the Lease Agreement, and the Clerk is hereby authorized to attest and to affix the
3 seal of the City on the Lease Agreement with such changes, additions and modifications as
4 the Mayor may make or approve in accordance with Section 13 hereof; provided, however,
5 that the maximum Base Rental (as defined in the Lease Agreement) to be paid under the
6 Lease Agreement in any fiscal year shall not exceed ~~Twenty Seven~~ Two Million Three
7 Hundred Thousand Dollars (\$27,0 2,300,000) and the initial stated term of the Lease
8 Agreement shall not extend beyond the 35th year following its date of execution, as such
9 initial term may be extended in accordance with the Lease Agreement.

10 Section 7. Approval of the Leased Property and the Base Rental Payments. The
11 Board hereby approves the leasing, pursuant to the terms of the Property Lease and the
12 Lease Agreement, of all or a portion of the Leased Property. The Board also hereby approves
13 the payment by the City of the Base Rental with respect thereto.

14 Section 8. Official Statement. The form of proposed Preliminary Official Statement
15 describing the Certificates (the "Preliminary Official Statement") submitted to the Board of
16 Supervisors is approved and adopted as the Preliminary Official Statement describing the
17 Certificates, with such additions, corrections and revisions as may be determined to be
18 necessary or desirable made in accordance herewith. The Controller is authorized to cause
19 the distribution of a Preliminary Official Statement deemed final for purposes of Securities and
20 Exchange Commission Rule 15c2-12 promulgated under the Securities Exchange Act of
21 1934, as amended (the "Rule"), and to sign a certificate to that effect. The Director of Public
22 Finance is authorized and directed to cause to be printed and mailed or electronically
23 distributed to prospective bidders or purchasers for the Certificates the Preliminary Official
24 Statement in substantially the form of the Preliminary Official Statement approved and
25 adopted by this Ordinance, as completed, supplemented, corrected or revised. The Controller

1 is authorized and directed to approve, execute, and deliver the final Official Statement with
2 respect to the Certificates, which final Official Statement shall be in the form of the Preliminary
3 Official Statement, with such additions, corrections and revisions as may be determined to be
4 necessary or desirable made in accordance herewith and as are permitted under the Rule.
5 The Director of Public Finance is authorized and directed to cause to be printed and mailed or
6 electronically distributed the final Official Statement to all actual initial purchasers of the
7 Certificates.

8 Section 9. Continuing Disclosure Certificate. The form of Continuing Disclosure
9 Certificate (the "Continuing Disclosure Certificate"), to be signed by the Controller to permit
10 the original purchasers of the Certificates to comply with the Rule, submitted to the Board is
11 approved and adopted as the Continuing Disclosure Certificate, with such additions,
12 corrections and revisions as may be determined to be necessary or desirable made in
13 accordance herewith. The Controller is authorized and directed to execute the Continuing
14 Disclosure Certificate on behalf of the City and deliver the Continuing Disclosure Certificate to
15 the original purchasers of the Certificates.

16 Section 10. Sale of the Certificates. The Controller or the Director of Public Finance
17 is hereby authorized to cause the sale of the Certificates by competitive or negotiated sale. If
18 sold by competitive sale, the Controller or the Director of Public Finance is hereby authorized
19 and directed to award the Certificates to the bidder whose bid represents the lowest true
20 interest cost to the City (as confirmed by the City's financial advisor) and whose bid otherwise
21 conforms to the bid requirements contained in the Official Notice of Sale.

22 The form of proposed Notice of Intention to Sell the Certificates (the "Notice of Intention
23 to Sell Certificates") submitted to the Board is approved and adopted as the Notice of
24 Intention to Sell the Certificates, and the Controller or the Director of Public Finance is
25 authorized and directed to cause the Notice of Intention to Sell Certificates, subject to such

1 corrections, revisions or additions as may be made in accordance herewith, to be published
2 once in *The Bond Buyer* or another financial publication generally circulated throughout the
3 State of California.

4 If the Controller or the Director of Public Finance determines to sell the Certificates by
5 negotiated sale, the Controller or the Director of Public Finance is hereby authorized to sell
6 the Certificates by negotiated sale pursuant to one or more purchase contracts (each, a
7 “Purchase Contract”) by and between the City and the underwriters named therein; provided,
8 however, that the underwriters’ discount under any such Purchase Contract shall not exceed
9 one percent (1.0%) of the principal amount of the Certificates.

10 To accomplish the sale of the Certificates by negotiated sale, if applicable, the
11 Controller or the Director of Public Finance is hereby authorized to appoint one or more
12 financial institutions to act as underwriter for the Certificates in accordance with City policies
13 and procedures, including but not limited to the City’s policy to provide locally disadvantaged
14 business enterprises an equal opportunity to participate in the performance of all City
15 contracts.

16 Section 11. Reimbursement. The City declares its official intent to reimburse prior
17 expenditures of the City incurred prior to the execution and delivery of the Certificates in
18 connection with the acquisition of the ~~Rehabilitation Detention Facility~~ Project Site or portions
19 thereof with the proceeds of the Certificates. The Board of Supervisors declares the City’s
20 official intent to reimburse the City with the proceeds of the Certificates for the expenditures
21 with respect to the ~~Rehabilitation Detention Facility~~ Project Site (the “Expenditures” and each
22 an “Expenditure”) made on and after that date that is no more than 60 days prior to adoption
23 of this Ordinance. The City reasonably expects on the date of adoption of this Ordinance that
24 it will reimburse the Expenditures with the proceeds of the Certificates.

1 Each Expenditure was and will be either (a) of a type properly chargeable to a capital
2 account under general federal income tax principles (determined in each case as of the date
3 of the Expenditure), (b) a cost of issuance with respect to the Certificates, (c) a nonrecurring
4 item that is not customarily payable from current revenues, or (d) a grant to a party that is not
5 related to or an agent of the City so long as such grant does not impose any obligation or
6 condition (directly or indirectly) to repay any amount to or for the benefit of the City. The
7 maximum aggregate principal amount of the Certificates expected to be executed and
8 delivered for the ~~Rehabilitation Detention Facility~~ Project Site is \$16,750,000. The City shall
9 make a reimbursement allocation, which is a written allocation by the City that evidences the
10 City's use of proceeds of the Certificates to reimburse an Expenditure, no later than 18
11 months after the later of the date on which the Expenditure is paid or the ~~Rehabilitation~~
12 ~~Detention Facility~~ Project Site is placed in service or abandoned, but in no event more than
13 three years after the date on which the Expenditure is paid. The City recognizes that
14 exceptions are available for certain "preliminary expenditures," costs of issuance, certain *de*
15 *minimis* amounts, expenditures by "small issuers" (based on the year of issuance and not the
16 year of expenditure) and expenditures for construction projects of at least 5 years.

17 Section 12. General Authority. The Mayor, the City Treasurer, the City Attorney, the
18 City Controller, the City Administrator, the Director of Public Finance, the Clerk and other
19 officers of the City and their duly authorized deputies, designees and agents are hereby
20 authorized and directed, jointly and severally, to take such actions and to execute and deliver
21 such certificates, agreements, requests or other documents as they may deem necessary or
22 desirable to accomplish the purposes of this Ordinance, including but not limited to the
23 execution and delivery of the Property Lease, the Lease Agreement, the Trust Agreement, the
24 Continuing Disclosure Certificate, the Purchase Contract and the Certificates, to obtain bond
25 insurance or other credit enhancements or a surety policy with respect to the Certificates, to

1 obtain title insurance, to clear any encumbrances to title and to carry out other title work. Any
2 such actions are solely intended to further the purposes of this Ordinance, and are subject in
3 all respects to the terms of this Ordinance. No such actions shall increase the risk to the City
4 or require the City to spend any resources not otherwise granted herein. Final versions of any
5 such documents shall be provided to the Clerk of the Board of Supervisors for inclusion in the
6 official file within 30 days of execution (or as soon thereafter as final documents are available)
7 by all parties.

8 Section 13. Modifications, Changes and Additions. The Mayor, the City Treasurer,
9 the City Controller and the Director of Public Finance each are hereby authorized to make
10 such modifications, changes and additions to the documents and agreements approved
11 hereby, upon consultation with the City Attorney, as may be necessary or desirable and in the
12 interests of the City, and which changes do not materially increase the City's obligations or
13 reduce its rights thereunder or hereunder. The respective official's approval of such
14 modifications, changes and additions shall be conclusively evidenced by the execution and
15 delivery thereof by such official.

16 Section 14. Partial Invalidity. Any provision of this Ordinance found to be prohibited
17 by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the
18 remainder of this Ordinance.

19 Section 15. Ratification of Prior Actions. All actions authorized and directed by this
20 Ordinance, consistent with any documents presented herein, and heretofore taken are hereby
21 ratified, approved and confirmed by the Board.

22 Section 16. File Documents. The documents presented to the Board and on file with
23 the Clerk of the Board or her designee (collectively, the "Clerk") are contained in File No.
24 151174.

25

1 Section 17. Effective Date. This Ordinance shall take effect immediately.

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3 APPROVED AS TO FORM:
4 DENNIS J. HERRERA, City Attorney

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6 By: _____
7 Mark D. Blake
8 Deputy City Attorney
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