Amendment of the Whole
March 1, 2000.

[County Jail No. 3 Replacement Project]


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

Section 1. FINDINGS. The Board of Supervisors of the City and County of San Francisco hereby finds and declares as follows:

A. County Jail No. 3 ("Jail"), located in San Mateo County, opened in 1932. In 1991, inmates housed in the Jail filed suit against the City challenging the constitutionality of conditions in the Jail. On July 18, 1997, the United States District Court concluded that conditions in the Jail violated the United States Constitution. The Court specifically found that the Jail posed fire safety and seismic risks, had inadequate plumbing and lighting and was unconstitutionally noisy. The Department of Public Works ("DPW") determined that it would not be cost effective or practical to attempt to seismically upgrade and repair the existing Jail. The Sheriff determined that, even if upgraded, the Jail's outmoded design and structure would not comply with State standards and would continue to pose risks to deputies and inmates. Further, the current jail system is overcrowded, even with the full use of the existing Jail and extensive use of drug treatment facilities and other alternatives to incarceration. The Sheriff therefore determined that the City will continue to need the housing capacity of County Jail No. 3 in order to protect public safety and house inmates in safe and humane conditions.

B. In order to settle the inmates' lawsuit, the City agreed, subject to the approval of the Board of Supervisors, to build a replacement jail facility on the site of the existing Jail ("County Jail No. 3 Replacement Project" or "Project"). DPW has determined that the City
will achieve cost savings and time efficiencies by utilizing the design-build method of
construction for the County Jail No. 3 Replacement Project. The Mayor's Office of Public
Finance has determined that there are not sufficient public funds available to undertake the
County Jail No. 3 Replacement Project. As a result, the Director of DPW sought proposals in
1998 for the design-build/finance of the County Jail No. 3 Replacement Project in accordance
with San Francisco Administrative Code section 6.09.

C. Two teams submitted competitive proposals for the design-build/finance of the
Project in accordance with Administrative Code section 6.09. In accordance with said section,
the scoring panels considered cost to the City, expediency in completing the Project,
qualifications to design-build/finance the Project and compliance with affirmative action goals
and the requirements of Administrative Code sections 12B, 12C and 12D, amongst other
factors. The proposal submitted by Prison Realty Trust ("PRT") was the highest-ranked
proposal.

D. After PRT was notified, the Sheriff, Mayor's Office of Public Finance and DPW
concluded that the cost of the Project as proposed by PRT, as well as the cost proposed by
the second-ranked proposer, was prohibitive. Thereafter, the Director of Public Works and
the City Architect entered into negotiations with PRT to reduce the scope and price of the
Project. These negotiations have resulted in a significant reduction in the cost of the Project
and an understanding between the City and PRT as to the major provisions to be included in
a contract for the design-build/finance of the Project.

E. On July 9, 1998, the Planning Department published a Final Environmental
Impact Report ("FEIR") for the Project contemplated by this ordinance. Implementation of the
Project includes the adoption of the ordinance authorizing the design-build/finance contract.
On July 23, 1998, the Planning Commission certified the FEIR by Planning Commission
Motion No. 14663.
On January 3, 2000, the Department of City Planning issued a Memorandum to City Planning File No. 97.368E pursuant to California Environmental Quality Act ("CEQA") Guidelines Section 15164 including an Addendum to the FEIR for the Project (the "Addendum"), a copy of which is on file with the Clerk of the Board of Supervisors in File No. 000087, determining that changes to the Project proposed as a result of negotiations between the City and PRT would not result in any new significant environmental effects beyond those disclosed and analyzed in the FEIR, that no new information has become available since certification of the FEIR in July, 1998 that would require major revisions to the FEIR or its conclusions, that there are no substantial changes with respect to the circumstances under which the Project is to be undertaken since the certification of the FEIR that would cause new significant environmental impacts and that no further environmental analysis is required for the Project. This Board of Supervisors has reviewed and considered the information contained in the FEIR and the Addendum.

The Board of Supervisors adopted Resolution No. ______ on _____, making findings pursuant to CEQA, the State CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and adopting a mitigation monitoring program. The Board of Supervisors hereby adopts and incorporates the environmental findings contained in such Resolution by reference as though such findings were fully set forth in this Ordinance.

Section 2. The Offices of the City Attorney, City Architect, Mayor’s Office of Public Finance, Sheriff’s Department and DPW are hereby authorized to complete negotiations with PRT, or its successor by merger or acquisition, for the design-build/finance of the Project substantially in accordance with the following terms:

a. The total cost of Project will be as follows: the contract with PRT for the design-build portion of the Project will not exceed $115,000,000 (One Hundred Fifteen Million Dollars); the City’s expenses for project management, construction management, support
services and demolition of the existing Jail will not exceed $17,200,000 (Seventeen Million Two Hundred Thousand Dollars).

b. All construction subcontracts costing $500,000 or more, including at least 80% of all labor, equipment, material and supply subcontract costs, will be competitively bid to at least three qualified bidders for each subcontract bid package. Subcontracts will be awarded by PRT with the review and approval of the City based on a weighted scale of cost, achievement of Human Rights Commission goals and workforce availability. The total Project cost shall be adjusted by the amount, if any, that the subcontract bids differ from the estimates upon which the proposed cost of $115,000,000 is based; provided that the contract with PRT shall require PRT to complete all project work in accordance with the agreed upon design criteria for a not-to-exceed price of $115,000,000.

c. PRT will be responsible for providing all design and construction services necessary for receipt of an occupancy permit for a facility meeting or exceeding all design and specification requirements that have been agreed upon between the City and PRT, all industry standards and all applicable codes and regulations. The Project will meet the program needs identified by the Sheriff and agreed upon between the parties, including but not limited to the following: 384 cells each accommodating two prisoners, kitchen and eating facilities, medical and administration facilities and support services. PRT will provide all design consultants necessary for the design and construction and administration services through permitted occupancy and final closeout. DPW reserves the right to provide design or construction services through its own forces, in which case there will be an equitable reduction in fees for the Project, which amount shall accrue to the benefit of the City.

d. The proposed cost of $115,000,000 for the design-build portion of the Project includes estimated amounts to be paid by PRT to its general contractor and design team, which amount will be adjusted after bids have been received on the subcontractor bid...
packages. The amount to be paid by PRT to its general contractor for general conditions and
fee (supervision, overhead and profit) and to its design team for all design services as
described herein, collectively, will be no more than 25% of the actual cost of construction of
the Project. The total cost for the design-build portion of the Project will be adjusted
accordingly from the proposed cost of $115,000,000.
   e. PRT will produce a bid package schedule which minimizes the construction
duration.
   f. PRT will, at the City's discretion, re-design and re-bid subcontractor bid
packages if the low bid exceeds the budgeted amount. The cost of re-design shall be paid
50% by PRT and 50% from the re-designed bid package price.
   g. PRT assumes responsibility for all change orders which do not arise from DPW
requested changes to the Project's program.
   h. PRT assumes responsibility for on-budget, on-schedule delivery of the Project
regardless of its contractual agreements with parties other than the City. The Project will be
completed within 36 months after the City issues the Project's notice to proceed.

Section 3. PRT will assist the City in issuing certificates of participation to finance the
costs of the Project, subject to further Board approval. The maximum principal amount of
certificates of participation to finance the costs of the Project is not expected to exceed
$177,195,000. Consistent with the Project analyzed in the FEIR and the Addendum, the
Board intends that the certificates of participation will finance the design-build portion of the
Project under the contract with PRT that is the subject of this ordinance for all design and
construction Project costs in the anticipated amount of $115,000,000 as well as all City
Project costs in the anticipated amount of $17,200,000, including the demolition of the existing
Jail, which is contemplated to be carried out later under a separate contract.
Section 4. If the City Architect and Director of DPW determine that they are unable successfully to conclude negotiations with PRT on terms that are in the best interest of the City, then the City Architect and Director of DPW are authorized to terminate negotiations with PRT and to enter into negotiations with the second-ranked proposer for a contract in substantial conformance with the provisions set forth herein. If the City Architect and Director of DPW determine that said negotiations are not fruitful, then they are authorized to terminate negotiations with the second-ranked proposer and enter into negotiations with any other party whom they determine would offer the City the best opportunity to successfully negotiate a contract in substantial conformance with the provisions set forth herein.

Section 5. The competitive bidding requirements and design-build procedural requirements of Administrative Code Chapter 6 shall not apply to this Project, and any requirement for the City to accept a substitute in place of specified material and/or equipment is waived. A final contract agreement with PRT or any other design-build contractor for performance of the Project work shall be submitted to the Board of Supervisors for approval. The art enrichment allocation requirements of Administrative Code Chapter 3 shall not apply to this Project.

Section 6. The contract for design-build/finance of the Project shall require compliance with all Administrative Code requirements not specifically waived herein including, but not limited to, HRC requirements and First Source Hiring requirements.

APPROVED AS TO FORM:

LOUISE H. RENNE, City Attorney

By: ________________________________

Randall O. Parent
Deputy City Attorney
Ordinance authorizing the Sheriff’s Department, the Department of Public Works, the City Architect, the City Attorney’s Office and the Mayor’s Office of Public Finance to negotiate a design-build contract with Prison Realty Trust for the County Jail No. 3 replacement project; subject to further Board of Supervisors approval.

March 6, 2000 Board of Supervisors — PASSED, ON FIRST READING
Ayes: 10 - Ammiano, Becerril, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee
Absent: 1 - Bierman

March 13, 2000 Board of Supervisors — FINALLY PASSED
Ayes: 6 - Ammiano, Brown, Leno, Newsom, Teng, Yee
Absent: 5 - Becerril, Bierman, Katz, Kaufman, Yaki
I hereby certify that the foregoing Ordinance was FINALLY PASSED on March 13, 2000 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

Date Approved

MAR 24 2000

Mayor Willie L. Brown Jr.