

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 18-0121

WHEREAS, The City and County of San Francisco (City), under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC), owns certain real property known as 639 Bryant Street, Block 3777, Lot 052 (City Property), an approximately 1.37-acre parcel improved with a warehouse and parking lot currently used by SFPUC for heavy equipment and materials storage, SFPUC vehicle parking, construction staging, and other related purposes; and

WHEREAS, The SFPUC also operates a hydrogen peroxide tank on the City Property; and

WHEREAS, The SFPUC leases adjacent property at 651 Bryant Street, Block 3777, Lot 050 (City Leased Premises), for related SFPUC office and warehouse purposes under a lease that expires in October 2019, with a right to extend the lease for an additional 10 years; and

WHEREAS, The City Property is small and to meet the SFPUC's anticipated future water and power utility yard needs, either expansion of the existing facility or securing a replacement facility will be necessary in the near future; and

WHEREAS, 2000 Marin, L.P., a Delaware limited partnership (Developer), owns certain real property known as 2000 Marin Street, Block 4346, Lot 002 (2000 Marin), an approximately 7.98-acre parcel with a 74,000-square foot building built in 1989; and

WHEREAS, The Developer proposes to acquire the City Property in exchange for 2000 Marin, and seeks to develop a mixed-use project on the City Property, the City Leased Premises, and other adjacent parcels with approximately 923,000 square feet of office, 73,000 square feet of residential/PDR, 80,000 square feet of residential, and a 40,000-square foot public plaza (Development Project); and

WHEREAS, The City Property and the City Leased Premises are located within the City's proposed Central SOMA Plan, a multi-year public and cooperative interagency planning process the City began in 2011 (Planning Department Case No. 2011.1356EMTZU); and

WHEREAS, On April 17, 2018, the Board of Supervisors adopted Resolution No. 115-18 (File No. 180370) supporting negotiations for a potential exchange of the City Property for 2000 Marin, subject to City analysis and approvals following any required environmental review; and

WHEREAS, The Central SOMA Plan was approved by the City Planning Commission on May 10, 2018 and requires approval of an amendment to the City Planning Code by the Board of Supervisors to become effective; and

WHEREAS, The City and Developer propose to enter into a Conditional Land Use and Disposition Agreement ("Agreement") setting forth the terms and conditions for the parties' exchange of the City Property and 2000 Marin; and

WHEREAS, Under the Agreement's terms, the consummation of the property exchange transaction is conditioned on, among other things, the approval by the Board of Supervisors and the Mayor of the exchange, at their sole discretion, following the satisfaction of numerous conditions and completion of all required environmental review; and

WHEREAS, Developer's obligation to complete the property exchange is conditioned on, among other things, the Developer's receipt of all governmental approvals necessary for Developer to proceed with the Developer Project, including zoning changes, and the Board of Supervisors' waiver or reduction of certain development impact fees in exchange for Developer's dedication of a public park to the City as part of the Developer Project; and

WHEREAS, The fair market value of the City Property is \$63,875,000, as determined by a MAI appraisal by Clifford Advisory, LLC dated July 2, 2018; and

WHEREAS, The fair market value of 2000 Marin is \$63,600,000, as determined by a MAI appraisal by Clifford Advisory, LLC, dated July 2, 2018 and such appraisal states that there is not currently adequate information regarding the soils contamination to determine what development impact, if any, could be anticipated, and whether the conditions impact value; and

WHEREAS, the Agreement requires the Developer to pay for a Phase II environmental study of 2000 Marin and based on the results of that study, SFPUC will prepare an estimate of the costs of remediating 2000 Marin for the SFPUC's proposed industrial uses to be presented to this Commission as part of its review of the environmental condition of the property provided for under the Agreement; and

WHEREAS, The Commission's declaration of surplus regarding 639 Bryant, the proposed exchange of the City Property for 2000 Marin, and the Developer's obligations to make the payments described above (other than City's pre-Agreement costs) are conditioned upon the satisfaction of certain conditions, including (1) the Commission's review of the Phase II environmental testing results, remediation costs, and written approval of the environmental condition of 2000 Marin and (2) the Commission's approval of the Developer's lease of a portion of 2000 Marin to Kilroy or an alternate funding source; and

WHEREAS, In addition to providing for the exchange of 2000 Marin for the City Property, the Agreement also provides that:

1. Prior to the consummation of the proposed property exchange, the Developer will construct new temporary facilities ("Temporary SFPUC Facility") for the SFPUC on a portion of 2000 Marin. The Agreement requires the SFPUC to reimburse the Developer for its costs incurred in constructing the Temporary SFPUC Facility (the "Reimbursable Costs") but provides that the Developer will enter into a lease of the remaining portion of 2000 Marin to Kilroy Realty, or an affiliate, and assign any such lease to the SFPUC upon the consummation of the proposed property exchange, and the rental income from such lease will be sufficient for the SFPUC to repay the Reimbursable Costs. If the Developer does not complete such a lease prior to the consummation of the proposed property exchange, City and Developer will work together to identify and secure an alternative revenue source acceptable to City that will generate sufficient revenue to allow City to repay Developer the Reimbursable Costs. This Commission must approve

either the proposed lease or an alternative revenue source as an express condition of the consummation of the proposed property exchange.

2. At its sole expense, the Developer will relocate the hydrogen peroxide tank from the City Property to a location either on or under the public park to be constructed on the City Property, on other land owned by the Developer within the Development Project, or on or under a public street adjacent to or within the Development Project and, if necessary, provide City with (i) a license, easement, or other instrument acceptable to City that will allow City to access the hydrogen peroxide tank during the period prior to its relocation and (ii) an easement or other instrument acceptable to City that will grant to City irrevocable real estate rights to access, operate, maintain, repair, and replace the hydrogen peroxide tank at its new location.
3. The Developer will reimburse the SFPUC for up to \$35,000 in expenses incurred as consultant fees in connection with cost estimates for the relocation of the SFPUC's personal property to 2000 Marin.
4. The Developer will reimburse City for up to \$245,000 of its pre-Agreement transaction costs, including attorney's fees for negotiation and preparation of the Agreement, and costs incurred to investigate the physical condition, title, and suitability of 2000 Marin for City's use.
5. The Developer will pay up to \$690,000 ("Transaction Costs") for City's transaction and relocation costs incurred during the period commencing on the day after the Effective Date of the Agreement and ending on the earlier of the date that the Agreement is terminated pursuant to its terms, or the consummation of the proposed property exchange. The Transaction Costs include the City's actual costs to relocate the SFPUC's personal property from the City Property to the SFPUC Temporary Facility; Phase II environmental testing and SFPUC's oversight costs (not to exceed \$100,000) for 2000 Marin; appraisal fees; City personnel, consultant, and other environmental review costs and fees; and City's attorney's fees, title insurance, escrow costs, and other closing costs to acquire 2000 Marin; and

WHEREAS, The SFPUC intends to use the entirety of 2000 Marin solely for utility purposes after the SFPUC determines its optimal use and the scope of improvements necessary for such use and identifies adequate funding for such improvements, and towards that end, any lease with Kilroy Realty or an affiliate for a portion of 2000 Marin shall be for a short-term, temporary use; and

WHEREAS, This resolution is not an approval of any project or a commitment to proceed with the proposed property exchange, and this resolution does not constitute an "Approval," as that term is defined by CEQA Guidelines Section 15352; and

WHEREAS, This Agreement constitutes a conditional, phased land acquisition agreement and the Agreement stipulates that the City shall complete all necessary environmental review as required by the California Environmental Quality Act (CEQA), Chapter 31 of the Administrative Code, and all other applicable local and State laws prior to taking any final approval action for the consummation of the exchange transaction for the properties; now, therefore, be it

RESOLVED, That this Commission hereby finds that the existing space at the City Property will not meet the SFPUC's anticipated future utility yard needs, requiring either expansion of the existing facility or securing a replacement facility in the near future; and, be it

FURTHER RESOLVED, That this Commission finds that SFPUC's acquisition of 2000 Marin under the terms and conditions set forth in the proposed Agreement would allow improved and more integrated SFPUC utility yard operations on a site that is five times larger than the City Property, with excellent access to transportation routes; and, be it

FURTHER RESOLVED, That this Commission instructs SFPUC staff to return this to this Commission for its consideration of those matters that require its further consideration and approval pursuant to the proposed Agreement, including the SFPUC Commission's review of the Phase II environmental testing results, the projected remediation costs, and the environmental condition of 2000 Marin; and, be it

FURTHER RESOLVED, That if and when all of the conditions in the Agreement are satisfied and the consummation of the proposed property exchange contemplated by the Agreement is completed and the SFPUC consequently acquires 2000 Marin, the City Property will be surplus to the SFPUC's utility needs; and, be it

FURTHER RESOLVED, That this Commission hereby ratifies, approves, and authorizes all actions heretofore taken by any City official in connection with this Agreement; and, be it

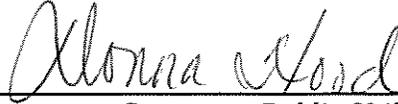
FURTHER RESOLVED, That this Commission hereby authorizes and directs the SFPUC's General Manager to execute the Agreement in substantially the same form presented to this Commission, subject to the approval of the Board of Supervisors and Mayor; and, be it

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager and/or the Director of Property to enter into any amendments or modifications to this Agreement, including without limitation, the exhibits, that the General Manager or Director of Property determines, in consultation with the City Attorney, are in the best interest of the City, do not materially increase the obligations or liabilities of the City, are necessary or advisable to effectuate the purposes and intent of the Agreement or this resolution, and are in compliance with all applicable laws, including the City Charter; and, be it

FURTHER RESOLVED, That, upon approval by City's Board of Supervisors and the Mayor and the consummation of the proposed property exchange, this Commission authorizes the Director of Property and/or the SFPUC General Manager to execute and deliver a quitclaim deed conveying the City Property to Developer; and, be it

FURTHER RESOLVED, That upon approval by City's Board of Supervisors and the Mayor, this Commission authorizes the Director of Property and/or the General Manager of the SFPUC to take any and all other steps they, in consultation with the City Attorney, deem necessary and advisable to effectuate the purpose and intent of this Resolution.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of July 10, 2018.

A handwritten signature in cursive script that reads "Alonna Wood". The signature is written in black ink and is positioned above a horizontal line.

Secretary, Public Utilities Commission