

1 [Real Property Sale Agreement - State of California - Portions of SFPUC Parcel No. 65 - State
2 Route 84 / Interstate 680 Widening Project in Alameda County - \$152,952]

3 **Resolution 1) approving and authorizing the General Manager of the San Francisco**
4 **Public Utilities Commission (“SFPUC”) and/or the Director of Property, on behalf of the**
5 **City and County of San Francisco (“City”), to sell certain real property located along**
6 **State Route 84 and Interstate 680 in unincorporated Alameda County to the State of**
7 **California (Parcel No. 65) for public highway improvements, acting through its**
8 **California Department of Transportation (“Caltrans”), and the Alameda County**
9 **Transportation Commission (“Alameda CTC” and together with Caltrans, the “Buyers”)**
10 **for the amount of \$152,952; 2) approving and authorizing an Agreement for Sale of Real**
11 **Estate (“Sale Agreement”) for the sale of the Property to the Buyers, which includes a**
12 **liquidated damages clause in case of default by the City; 3) authorizing the SFPUC**
13 **General Manager and/or City’s Director of Property to execute the Sale Agreement,**
14 **make certain modifications, and take certain actions in furtherance of this Resolution**
15 **and the Sale Agreement, as defined herein; 4) adopting findings declaring that the real**
16 **property is “surplus land” and “exempt surplus land” pursuant to the California**
17 **Surplus Lands Act; 5) determining that a competitive bidding process for the**
18 **conveyance of the Property is impractical and not in the public interest, in accordance**
19 **with Section 23.3 of the Administrative Code; 6) affirming the Planning Department’s**
20 **determination under the California Environmental Quality Act (“CEQA”) and adopting**
21 **the findings required by Section 15091 of the CEQA Guidelines previously adopted by**
22 **Caltrans in conjunction with the Project; and 7) adopting the Planning Department’s**
23 **findings that the Sale Agreement, and the transaction contemplated therein, is**
24 **consistent with the General Plan, and the eight priority policies of Planning Code,**
25 **Section 101.1.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WHEREAS, The City owns certain real property under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC) located along State Route 84 (“SR-84”) and Interstate 680 (“I-680”) in the unincorporated Town of Sunol, Alameda County, consisting of underutilized unimproved portions of SFPUC Parcel 65, also designated as portions of Assessor’s Parcel Block Nos. 96-375-6-8, 96-375-6-11, 96-375-7-3, and 96-375-12-2; and

WHEREAS, Buyers propose to widen and conform SR-84 to expressway standards, improve the SR-84/I-680 interchange ramps, and extend the existing southbound I-680 HOV/express lane (“Project”); and

WHEREAS, As a component of the Project, Caltrans desires to acquire from City approximately 257,182 square feet of unimproved agricultural land, approximately 99,638 square feet of easement area, and 1,609.09 linear feet of abutter’s rights; and

WHEREAS, As another Project component, Caltrans desires to purchase approximately 56,175 square feet of electrical utility easements to convey to Pacific Gas & Electric Company (“PG&E”) to accommodate the relocation of PG&E electrical utilities dislocated by the Project; and

WHEREAS, As another Project component, the Alameda CTC seeks to purchase from City an approximately a 5,371 square-foot portion of Assessor’s Parcel Block No. 96-375-6-11, and a 30,941 square foot non-exclusive access easement located within Assessor’s Parcel Block No. 96-375-12-2; and

WHEREAS, The fee interests, easement areas, and abutter’s rights that City proposes to sell to Buyers are collectively referred to herein as the “Property”; and

WHEREAS, Caltrans has the authority to exercise the power of eminent domain and compel City to sell the Property; and

1 WHEREAS, Buyers and City recognize the expense, time, effort, and risk to both
2 parties in determining the compensation for acquiring the Property by eminent domain
3 litigation, and to avoid such litigation, Buyers and City desire to enter into the Agreement for
4 Sale of Real Estate (“Sale Agreement”); and

5 WHEREAS, The SFPUC has no utility use for the unimproved Property, which was
6 deemed underutilized per an SFPUC statement of underutilization for the Real Property dated
7 May 18, 2021, signed by the Assistant General Managers of the Water, Wastewater, and
8 Power Enterprises; and

9 WHEREAS, On July 13, 2021, per SFPUC Commission Resolution 21-0110, the
10 SFPUC Commission declared the Property surplus to its utility needs pursuant to Charter
11 Section 8B.121(e), and approved the terms and conditions of the Sale Agreement, subject to
12 approval by the Board of Supervisors; and

13 WHEREAS, On July 13, 2021, per SFPUC Commission Resolution 21-0110, the
14 SFPUC Commission declared the Property as “surplus land,” as defined in California
15 Government Code Section 55421(b), because it is owned in fee simple by City and not
16 necessary for City’s use; and

17 WHEREAS, On July 13, 2021, per SFPUC Commission Resolution 21-0110, the
18 SFPUC Commission declared the Property as “exempt surplus land,” as defined in California
19 Government Code, Section 55421(f)(1)(D), because it is surplus land that the City is
20 transferring to another local agency and a state agency for the agencies’ use; and

21 WHEREAS, Per Section 23.3 of the Administrative Code, the City may convey the
22 Property to Buyers without a competitive bidding process if the Board of Supervisors
23 determines a competitive process “is impractical, impossible, or is otherwise not in the public
24 interest, including, for example only and not by way of limitation, when the Real Property is
25 not capable of independent development, will be exchanged for other Real Property, or when

1 the Board determines that a negotiated direct Conveyance of the Real Property will further a
2 public purpose;” and

3 WHEREAS, On July 13, 2021, per SFPUC Commission Resolution 21-0110, the
4 SFPUC Commission determined that, in this case, a competitive bidding process is
5 impractical and otherwise not in the public interest because the sale of the Property to Buyers
6 will avoid the expense, time, effort, and risk of eminent domain litigation and will support the
7 construction of public highway improvements, and because the Property’s location and
8 dimensions makes use by any other entity impractical; and

9 WHEREAS, The SFPUC intends to sell the Property to Buyers on an “as-is with all
10 faults” basis; and

11 WHEREAS, Buyers’ offer of fair and just compensation in the sum of \$152,952 for their
12 purchase of the Property, including electrical utility easements that will be conveyed to PG&E,
13 was made in accordance with California Government Code, Section 7267.2, and the Buyers’
14 appraisals of value conformed to Standards Rule 2-2(a) of the Uniform Standards of
15 Professional Appraisal Practice; and

16 WHEREAS, On June 17, 2021, City’s Director of Property reviewed and concurred with
17 Caltrans’ conclusion that the value of the Property is \$152,952; and

18 WHEREAS, Acting as the Lead Agency under California Environmental Quality Act
19 (“CEQA”) and National Environmental Policy Act (“NEPA”), Caltrans (in cooperation with the
20 Alameda CTC) prepared the SR 84 Expressway Widening and SR 84/I-680 Interchange
21 Improvements Project Environmental Impact Report/Environmental Assessment (“EIR/EA”)
22 with Findings of No Significant Impact (“FONSI”), pursuant to the provisions of CEQA and
23 NEPA; and Caltrans certified the EIR on May 30, 2018 (State Clearinghouse Number
24 2016052033), and a Notice of Determination has been published for compliance with CEQA,
25 and Caltrans has issued a FONSI for compliance with NEPA; and

1 WHEREAS, Following certification, design changes were incorporated into the Project,
2 which required a subsequent review and revalidation of the approved EIR/EA and FONSI; and
3 additional environmental review was conducted, necessary documentation provided, and the
4 revalidation process completed, and Caltrans provided concurrence with the previous
5 NEPA/CEQA conclusion and determined in its NEPA/CEQA Revalidation Form dated July 13,
6 2020, that the 2018 Final EIR/EA and FONSI remains valid; and

7 WHEREAS, The SFPUC is a Responsible Agency for the Project under CEQA
8 because a portion of the Project requires SFPUC consent for Buyers' use and purchase of
9 SFPUC right-of-way; and

10 WHEREAS, The SFPUC has reviewed the Final EIR/EA and FONSI and NEPA/CEQA
11 Revalidation Form and determined that SFPUC's issuance of a Sale Agreement for the
12 Project is within the scope of the Project's CEQA approval and that these documents are
13 adequate for SFPUC's use in issuing the Sale Agreement for the Project; and the EIR/EA and
14 FONSI, the NEPA/CEQA Revalidation Form, CEQA Findings, and other Project materials that
15 are part of the record of this approval are available for public review at the SFPUC offices,
16 Real Estate Services Division, 525 Golden Gate Avenue, 10th Floor, San Francisco, CA; and

17 WHEREAS, Since Caltrans approved the Project and completed the Revalidation of
18 the EIR/EA and FONSI, there have been no substantial changes in the Project or changes in
19 Project circumstances that would result in new significant environmental effects or an increase
20 in the severity of previously identified significant impacts, and there is no new information of
21 substantial importance that would change the conclusions set forth in the EIR/EA and FONSI;
22 and

23 WHEREAS, Buyers have adopted the mitigation measures included in the EIR/EA and
24 FONSI and set forth in the mitigation program and have assumed responsibility for their
25 implementation; and the SFPUC has no direct authority or responsibility with respect to the

1 Project other than to enable the Project sponsors through issuance of the Sale Agreement to
2 carry out the proposed action; and

3 WHEREAS, The Planning Department, by letter dated May 5, 2021, which letter is on
4 file with the Clerk of the Board of Supervisors under File No. 211001 and which letter is
5 incorporated herein by this reference, found that the conveyance of the Property to Buyers is
6 consistent with the City's General Plan, and with the eight priority policies of Planning Code,
7 Section 101.1 and that the Project received CEQA clearance under the EIR/EA; and

8 WHEREAS, A copy of the Sale Agreement is on file with the Clerk of the Board of
9 Supervisors under File No. 211001, which is incorporated herein by this reference and is
10 considered part of the record before this Board; and

11 WHEREAS, The SFPUC has by its Resolution No. 21-0110, dated July 13, 2021, a
12 copy of which is on file with the Clerk of the Board in File No. 211001, approved the Sale
13 Agreement and authorized the SFPUC General Manager to execute the necessary
14 conveyance documents for the sale of the Property, including the Sale Agreement, upon
15 approval from the Board of Supervisors and Mayor; now, therefore, be it

16 RESOLVED, That the Board of Supervisors hereby adopts the findings contained in the
17 recitals set forth above as if set forth fully herein, and also adopts the findings required by
18 Section 15091 of the CEQA Guidelines previously adopted by Caltrans in conjunction with
19 Caltrans' approval of the Project; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors hereby finds, in consideration
21 of the foregoing, that the Property is "surplus land," as defined in California Government
22 Code, Section 55421(b) because it is owned in fee simple by City and not necessary for City's
23 use; and, be it

24 FURTHER RESOLVED, That the Board of Supervisors hereby finds, in consideration
25 of the foregoing, that the Property is "exempt surplus land," as defined in Government Code,

1 Section 5422l(f)(1)(D) because it is surplus land that the City is transferring to another local
2 agency and a state agency for the agencies' use; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors hereby determines, in
4 accordance with Section 23.3 of the Administrative Code, that a competitive bidding process
5 for the conveyance of the Property is impractical and is otherwise not in the public interest
6 because the sale of the Property to the Buyers will avoid the expense, time, effort, and risk of
7 eminent domain litigation and will support the construction of public highway improvements
8 and because the Property's location and dimension makes use by any other entity impractical;
9 and, be it

10 FURTHER RESOLVED, That the Board of Supervisors hereby finds that the
11 conveyance of the Property to Buyers is consistent with the General Plan, and with the eight
12 priority policies of City Planning Code, Section 101.1 for the same reasons as set forth in the
13 letter of the Director of Planning dated May 5, 2021, and hereby incorporates such findings as
14 though fully set forth in this Resolution; and, be it

15 FURTHER RESOLVED, That, in accordance with the recommendation of the SFPUC,
16 the Board of Supervisors approves and authorizes the SFPUC to sell the Property to Buyers
17 for \$152,952; and, be it

18 FURTHER RESOLVED, That, in accordance with the recommendation of the SFPUC,
19 the Board of Supervisors approves the Sale Agreement presented to the Board, including the
20 liquidated damages clause in case of default by City, and approves and authorizes the
21 SFPUC General Manager and/or City's Director of Property to take all actions necessary or
22 appropriate to sell the Property and effectuate the Sale Agreement and this Resolution; and,
23 be it

24 FURTHER RESOLVED, That the SFPUC General Manager and/or City's Director of
25 Property is hereby authorized and urged in the name and on behalf of the City and County, to

1 execute the Sale Agreement for the sale of the Property to Buyers in accordance with the
2 terms and conditions of the Sale Agreement, and to take any all steps (including, but not
3 limited to, the execution and delivery of any and all certificates, agreements, notices,
4 consents, escrow instructions, closing documents and other instruments or documents) as the
5 SFPUC General Manager and/or City's Director of Property deems necessary or appropriate
6 pursuant to the Sale Agreement, or to otherwise effectuate the purpose and intent of this
7 Resolution, such determination to be conclusively evidenced by the execution and delivery by
8 the SFPUC General Manager and/or City's Director of Property of any such documents; and,
9 be it

10 FURTHER RESOLVED, That in accordance with the recommendation of the SFPUC
11 General Manager, the Board of Supervisors hereby ratifies, approves, and authorizes all
12 actions heretofore taken by any City official in connection with the Sale Agreement and the
13 transaction contemplated thereby; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors authorizes the SFPUC General
15 Manager and/or City's Director of Property, in consultation with the Office of the City Attorney,
16 to enter into any additions, amendments, or other modifications to the Sale Agreement
17 (including, without limitation, the exhibits and ancillary agreements attached to the Sale
18 Agreement), that the SFPUC General Manager and/or City's Director of Property determine
19 are in the best interests of the City, do not materially decrease the benefits to the City with
20 respect to the Property, do not materially increase the obligations or liabilities of either SFPUC
21 or the City, are necessary or advisable to complete the transaction contemplated in the Sale
22 Agreement, effectuate the purpose and intent of this Resolution, such determination to be
23 conclusively evidenced by the execution and delivery by the SFPUC General Manager and/or
24 City's Director of Property of any such additions, amendments, or other modifications, and are
25 in compliance with all applicable laws, including the City Charter; and, be it

1 FURTHER RESOLVED, That within thirty (30) days after the Closing (as defined
2 in the Sale Agreement), the SFPUC shall provide any applicable final contracts to the Clerk
3 of the Board for inclusion into the official file.

4
5
6 RECOMMENDED:

7
8 /s/ _____

9 Andrico Penick
10 Director of Property