

1 [Purchase of Real Property located at 201 Leland Avenue, San Francisco for the Public
2 Library.]

3
4 **Resolution authorizing the execution and performance of an Agreement of Purchase**
5 **and Sale for Real Estate for the City purchase of real property and improvements**
6 **located at 201 Leland Avenue, San Francisco subject to a short term lease with the**
7 **Seller, for use as the Visitacion Valley Branch Library of the San Francisco Public**
8 **Library; adopting findings under the California Environmental Quality Act; and**
9 **adopting findings that the conveyance is consistent with the City's General Plan and**
10 **Eight Priority Policies of City Planning Code Section 101.1.**

11
12 WHEREAS, In November of 2000, the voters of the City passed a general obligation
13 bond for the renovation and acquisition of land and improvements for the City's Public Library
14 system; and,

15 WHEREAS, San Jeev Kharbanda, a single man, and Sunil Kumar Kharbanda, a single
16 man, and Parvesh C. Kharbanda and Sumitra Kharbanda, husband and wife, (collectively
17 referred to as Seller) own the real property and improvements consisting of an approximately
18 16,637 square foot parcel of land, located at 201 Leland Avenue, San Francisco, California
19 (the "Property") and desires to sell the Property subject to a short term leaseback and City's
20 cooperation with a 1031 property tax exchange; and,

21 WHEREAS, On April 17, 2003, by Resolution the San Francisco Public Library
22 Commission endorsed and recommended to the Board of Supervisors approval of the
23 purchase of the Property from the Seller; and,

24 WHEREAS, There are sufficient bond funds available to pay for the purchase of the
25 Property; and,

1 WHEREAS, In order to consummate the purchase of the Property, the Board of
2 Supervisors desires to authorize the execution, delivery and performance of the Purchase
3 Agreement and Lease Agreement (a copy of both the proposed Purchase Agreement and
4 Lease Agreement are on file with the Clerk of the Board of Supervisors); and,

5 WHEREAS, the purchase price for the Property is \$2,200,000, (the "Purchase Price"),
6 subject to a \$200,000 purchase price holdback for performance of the lease, has been
7 determined by the Director of Property to reflect the fair market value of the Property; and,

8 WHEREAS, The Seller has the right to leaseback the property on a triple net month to
9 month basis for a period not to exceed 180 days on the following rent schedule: \$1,000 per
10 month for the first 90 days, \$5,000 per month for the next 30 days, \$10,000 per month for the
11 next 30 days, \$16,500 for the last 30 days, (the "Lease Agreement"). City shall hold back
12 \$200,000 of the purchase price as a security deposit to insure Seller performance of Seller's
13 obligation under the Lease Agreement. In the event Seller has not vacated the property within
14 the 180 day period, in addition to the \$16,500 per month rent, City shall, at its option, reduce
15 such \$200,000 holdback by \$100 per day for the first 15 days, \$200 per day for the next 30
16 days, \$400 per day for the next 30 days, and \$800 per day thereafter; and,

17 WHEREAS, Pursuant to the Purchase Agreement, the City will have the opportunity to
18 review information concerning the Property and to terminate the Purchase Agreement if the
19 City is dissatisfied with the results of its due diligence review; and,

20 WHEREAS, The Purchase Agreement includes a limited indemnification by the City in
21 connection with the City's entry onto the Property for purposes of conducting due diligence
22 investigations, inquiries and studies; and,

23 WHEREAS, On April, 30, 2003, the Department of City Planning adopted and issued a
24 General Plan Consistency Finding, (a copy of which is on file with the Clerk of the Board)
25 wherein the Department of City Planning found that the acquisition of the Property pursuant to

1 the Purchase Agreement is consistent with the City's General Plan and with the Eight Priority
2 Policies under Planning Code Section 101.1; and,

3 WHEREAS, On April 30, 2003, the Department of City Planning also found that
4 acquisition of the Property is categorically exempt from Environmental Review a copy of which
5 finding is on file with the Clerk of the Board; now, therefore, be it

6 RESOLVED, That the Board of Supervisors hereby adopts the findings contained in the
7 documents from the Department of City Planning dated April 30, 2003, regarding the
8 California Environmental Quality Act, and hereby incorporates such findings by reference as
9 though fully set forth in this Resolution; and be it,

10 FURTHER RESOLVED, That the Board of Supervisors hereby finds that the purchase
11 of the Property, as contemplated by the Purchase Agreement and Lease Agreement are
12 consistent with the General Plan, and with the eight Priority Policies of Planning Code Section
13 101.1 for the same reasons as set forth in the letter of the Department of City Planning, dated
14 April 30, 2003, and hereby incorporates such findings by reference as though fully set forth in
15 this Resolution; and, be it

16 FURTHER RESOLVED, That in accordance with the recommendation of the Director
17 of Property, the Library Commission and the City Librarian, the execution, delivery and
18 performance of the Purchase Agreement and Lease Agreement are hereby approved and the
19 Director of Property (or his designee) is hereby authorized to execute the Purchase
20 Agreement and Lease Agreement, in substantially the form of such Purchase Agreement and
21 Lease Agreement on behalf of the City and any such other documents that are necessary or
22 advisable to complete the transaction contemplated by the Agreements and effectuate the
23 purpose and intent of this Resolution; and, be it

24
25

1 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
2 Property to cooperate with Seller's 1031 Tax Deferred Exchange at no cost or liability to City;
3 and, be it

4 FURTHER RESOLVED, That revenue, if any, from the Lease to Seller shall be
5 deposited back into the Proposition A funds; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
7 Property (or his designee) to enter into any additions, amendments or other modifications to
8 the Purchase Agreement and Lease Agreement and any other documents or instruments
9 necessary in connection therewith, that the Director of Property determines are in the best
10 interests of the City, do not materially decrease the benefits to the City with respect to the
11 Property, do not materially increase the obligations or liabilities of the City, and are necessary
12 or advisable to complete the transaction contemplated in the Purchase Agreement and Lease
13 Agreement and effectuate the purpose and intent of this Resolution, such determination to be
14 conclusively evidenced by the execution and delivery by the Director of Property (or his
15 designee) of any such additions, amendments, or other modifications; and, be it

16 FURTHER RESOLVED, That all actions authorized and directed by this Resolution and
17 heretofore taken are hereby ratified, approved and confirmed by this Board of Supervisors.

18
19
20
21
22
23
24
25

\$2,200,000 Available
Branch Library Facilities Improvement
Bonds, 2000
Funding code 3C PLI 01B
Index code PWA803CLIO1B
Project CLBBL2 POVV40

Controller

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

RECOMMENDED:

Steve Legnitto
Acting Director of Property

Susan Hildreth
City Librarian