

File No. 160885

Committee Item No. 4
Board Item No. 9

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date September 14, 2016

Board of Supervisors Meeting

Date September 20, 2016

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Linda Wong Date September 9, 2016
Completed by: Linda Wong Date September 15, 2016

1 [Real Property Acquisition - Easements from TSE Serramonte, L.P. - Regional Groundwater
2 Storage and Recovery Project, San Mateo County - \$23,170]

3 **Resolution approving and authorizing the acquisition of one temporary construction**
4 **easement and one permanent subsurface easement for a sanitary sewer and electrical**
5 **line, from TSE Serramonte, L.P., a California limited partnership for \$23,170 to be used**
6 **by the City and County of San Francisco under the Water System Improvement**
7 **Program for the access, installation, modification, removal, inspection, maintenance,**
8 **repair, replacement, periodic scheduled maintenance, emergency repairs, and**
9 **construction of the project known as the Regional Groundwater Storage and Recovery**
10 **Project, Project No. CUW30103; adopting findings under the California Environmental**
11 **Quality Act; adopting findings that the conveyance is consistent with the General Plan,**
12 **and the eight priority policies of Planning Code, Section 101.1; and approving the**
13 **Agreement and authorizing the Director of Property and/or the San Francisco Public**
14 **Utilities Commission General Manager to execute documents, make certain**
15 **modifications, and take certain actions in furtherance of this Resolution, as defined**
16 **herein.**

17
18 WHEREAS, The San Francisco Public Utilities Commission ("SFPUC") has developed
19 and approved the Regional Groundwater Storage and Recovery Project ("Project"), Project
20 No. CUW30103, a water infrastructure project included as part of the Water System
21 Improvement Program ("WSIP"), with the primary purpose of providing additional dry-year
22 regional water supply capacity; and

23 WHEREAS, The Project is located in the County of San Mateo and its completion
24 would help the SFPUC achieve the WSIP Level of Service goal for Water Supply adopted by
25 the SFPUC in Resolution No. 08-200; and

1 WHEREAS, The specific objectives of the Project are to conjunctively manage the
2 South Westside Groundwater Basin through the coordinated use of SFPUC surface water
3 and groundwater pumped by the City of Daly City, the City of San Bruno, and the California
4 Water Service Company ("Participating Pumpers") to provide supplemental SFPUC surface
5 water to the Participating Pumpers in normal and wet years, resulting in a corresponding
6 reduction of groundwater pumping, which then allows for in-lieu recharge of the South
7 Westside Groundwater Basin to increase the dry-year and emergency pumping capacity of
8 the South Westside Groundwater Basin by up to an average annual volume of 7.2 million
9 gallons per day and provide a new dry-year groundwater supply for SFPUC customers and
10 increase water supply reliability during a multi-year drought cycle; and

11 WHEREAS, An Environmental Impact Report ("EIR") as required by the California
12 Environmental Quality Act ("CEQA") was prepared for the Project by the San Francisco
13 Planning Department, File No. 2008.1396E; and

14 WHEREAS, The San Francisco Planning Commission on August 7, 2014 1) certified
15 the FEIR for the Project by Motion No. M-19209; 2) adopted findings under CEQA,
16 including the adoption of a Mitigation Monitoring and Reporting Program ("MMRP") and a
17 statement of overriding considerations ("CEQA Findings") by Motion No. M-19210; and 3)
18 found the Project consistent with the General Plan, and eight priority policies of Planning,
19 Section 101.1 ("General Plan Findings") by Motion No. M-19211, a copy of the motions is
20 on file with the Clerk of the Board of Supervisors under File No. 150616, which is
21 incorporated herein by this reference; and

22 WHEREAS, The Project requires that the City acquire one (1) temporary construction
23 easement and one (1) permanent subsurface access easement for a sanitary sewer and
24 electrical line purposes (collectively, the "Easements") over, on, in, under and across portions
25

1 of that real property owned by the TSE Serramonte, L.P., a California limited partnership,
2 (“Grantor”) located in the City of Colma in San Mateo County, CA; and

3 WHEREAS, On August 12, 2014, by SFPUC Resolution No. 14-0127, a copy of
4 which is on file with the Clerk of the Board of Supervisors under File No. 140945, which is
5 incorporated herein by this reference, adopted CEQA Findings and approved the proposed
6 acquisition of the Easements by authorizing the SFPUC General Manager and/or the
7 Director of Property through consultation with the Office of the City Attorney, following
8 Board of Supervisors approval of the acquisition of the Easements, to accept and execute
9 final agreements, and any other related documents necessary to consummate the
10 transactions contemplated therein; and

11 WHEREAS, The Board of Supervisors on October 28, 2014 approved Resolution
12 No. 400-14, which included the adoption of CEQA Findings and the adoption of the San
13 Francisco Planning Commission’s General Plan Findings for the Project; a copy of which is
14 on file with the Clerk of Board of Supervisors under File No. 140945, which is incorporated
15 herein by this reference; and

16 WHEREAS, SFPUC staff, through consultation with the Director of Property and the
17 Office of the City Attorney, have negotiated with the Grantor the proposed terms and
18 conditions of City’s acquisition of the Easements as set forth in the form of an Agreement
19 for Purchase and Sale of Real Estate (“Agreement”), between City, as Grantee, and
20 Grantor, a copy of which is on file with the Clerk of the Board of Supervisors under File No.
21 160885, which is incorporated herein by reference, by which City would pay Grantee
22 \$23,170 as compensation for the Easements as determined by an appraisal report dated
23 June 6, 2014; and

24 WHEREAS, The Project files, including SFPUC Resolution Nos. 08-200 and 14-0127
25 and San Francisco Planning Department File No. 2008.1396E have been made available.

1 for review by the Board of Supervisors and the public, and those files are considered part of
2 the record before this Board; and

3 WHEREAS, the Board of Supervisors has reviewed and considered the information
4 contained in the FEIR, and the CEQA Findings, including all written and oral information
5 provided by the Planning Department, the public, relevant public agencies, the SFPUC and
6 other experts and the administrative files for the Project; now, therefore, be it

7 RESOLVED, The Board of Supervisors, having reviewed and considered the FEIR
8 and record as a whole, finds that the proposed Agreement is within the scope of the project
9 analyzed in the FEIR and previously approved by the San Francisco Planning Commission,
10 the SFPUC, and the Board of Supervisors; and, be it

11 FURTHER RESOLVED, The Board finds that the FEIR is adequate for its use as the
12 decision-making body for approval of the Agreement and hereby incorporates by reference
13 the CEQA Findings made in Resolution No. 400-14, Board File No. 140945 concerning the
14 Project; and, be it

15 FURTHER RESOLVED, The Board further finds that since the FEIR was finalized,
16 there have been no substantial project changes and no substantial changes in project
17 circumstances that would require major revisions to the FEIR due to the involvement of
18 new significant environmental effects or an increase in the severity of previously identified
19 significant impacts, and there is no new information of substantial importance that would
20 change the conclusions set forth in the FEIR; and, be it

21 FURTHER RESOLVED, The Board of Supervisors hereby incorporates by reference
22 the General Plan Findings made in Resolution No. 400-14, Board File No. 140945
23 concerning the Project; and, be it

24 FURTHER RESOLVED, That in accordance with the recommendations of the Public
25 Utilities Commission and the Director of Property, the Board of Supervisors hereby

1 approves the Agreement and the transaction contemplated thereby in substantially the form
2 of such instrument presented to this Board; and, be it

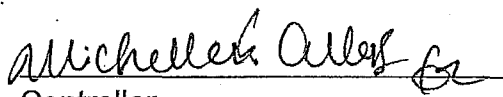
3 FURTHER RESOLVED, That the Board of Supervisors ratifies the Agreement and
4 authorizes the Director of Property and/or the SFPUC's General Manager to enter into any
5 additions, amendments, or other modifications to the Agreement (including, without
6 limitation, the attached exhibits) that the Director of Property and/or the SFPUC's General
7 Manager determines are in the best interest of the City, that do not materially increase the
8 obligations or liabilities of the City, and are necessary or advisable to complete the
9 transaction contemplated in the Agreement and effectuate the purpose and intent of this
10 resolution, such determination to be conclusively evidenced by the execution and delivery
11 by the Director of Property of the Agreement and any amendments thereto; and, be it

12 FURTHER RESOLVED, That the Director of Property is hereby authorized and
13 urged, in the name and on behalf of the City and County, to execute and deliver the
14 Agreement with Grantor upon the closing in accordance with the terms and conditions of
15 the Agreement, and to take any and all steps (including, but not limited to, the execution
16 and delivery of any and all certificates, agreements, notices, consents, escrow instructions,
17 closing documents, and other instruments or documents) as the Director of Property deems
18 necessary or appropriate in order to consummate the acquisition of the Easements
19 pursuant to the Agreement, or to otherwise effectuate the purpose and intent of this
20
21
22
23
24
25

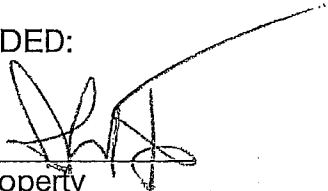
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

resolution, such determination to be conclusively evidenced by the execution and delivery
by the Director of Property of any such documents.

\$23,170.00 available
Index Code: 730150

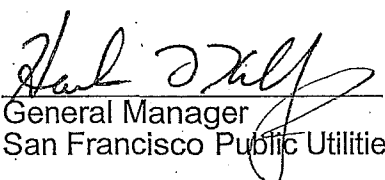

Controller

RECOMMENDED:



Director of Property
Real Estate Division

RECOMMENDED:



General Manager
San Francisco Public Utilities Commission

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

by and between

TSE SERRAMONTE, L.P., a California limited partnership

as Seller

and

CITY AND COUNTY OF SAN FRANCISCO,

as Buyer

For the purchase and sale of

A temporary construction easement over, on, and in, and
a permanent subsurface easement over, across, and under,
real property in the City of Colma, County of San Mateo, State of California

March 17, 2016

TABLE OF CONTENTS

	<u>Page</u>
1. PURCHASE AND SALE	1
1.1 Purchase and Sale of Easements	1
1.2 Easement Areas; Nature of Easements	1
2. PURCHASE PRICE	1
2.1 Purchase Price	1
2.2 Payment.....	2
2.3 Funds.....	2
3. CONVEYANCE OF EASEMENTS	2
3.1 Easement Deeds	2
3.2 State of Title.....	2
4. CONDITIONS TO CLOSING	3
4.1 City's Conditions to Closing	3
4.2 Seller's Conditions to Closing	4
4.3 Cooperation.....	4
5. CLOSING AND POSSESSION	4
5.1 "Closing" Defined.....	4
5.2 Escrow; Closing Without an Escrow	5
5.3 Closing Date.....	5
5.4 Seller's Delivery of Documents	5
5.5 City's Delivery of Documents and Funds	6
5.6 Other Documents; Cooperation	6
5.7 Closing.....	6
5.8 Possession and Use	7
6. EXPENSES.....	7
6.1 City's Expenses	7
6.2 Seller's Expenses.....	7
6.3 Other Expenses	8
7. AS IS TRANSACTION; REPRESENTATIONS AND WARRANTIES; INDEMNITY ..	8
7.1 As Is Sale	8
7.2 Seller Representations and Warranties	8
7.3 Indemnity.....	9
8. RISK OF LOSS.....	9
9. MAINTENANCE; CONSENT TO NEW CONTRACTS	9
9.1 Maintenance of the Easement Areas.....	9
9.2 Contracts Affecting the Easement Areas	9
10. DISMISSAL OF EMINENT DOMAIN ACTION.....	10
11. GENERAL PROVISIONS	10
11.1 Notices	10
11.2 Brokers and Finders	11
11.3 Successors and Assigns.....	11
11.4 Amendments; Waivers.....	11

11.5	Continuation and Survival of Representations and Warranties	11
11.6	Governing Law	11
11.7	Merger of Prior Agreements; No Inducement	11
11.8	Parties and Their Agents; Approvals	12
11.9	Remedies.....	12
11.10	Interpretation of Agreement.....	12
11.11	Attorneys' Fees.....	12
11.12	Severability	13
11.13	Sunshine Ordinance	13
11.14	Intentionally Omitted.....	13
11.15	Notification of Limitations on Contributions	13
11.16	Non-Liability of City Officials, Employees, and Agents	13
11.17	Counterparts	13
11.18	Effective Date	13
11.19	Release of Claims	14

LIST OF EXHIBITS

- EXHIBIT A Easement Deed for TCE with attached legal description and depiction of Easement Area to be conveyed thereby.
- EXHIBIT B Easement Deed for Utilities Easement with attached legal description and depiction of Easement Area to be conveyed thereby.
- EXHIBIT C Preliminary Title Report

AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE
(Easement Over, On, and In Portion of APN 008-421-120 and
Easement Over, Across, and Under Portion of APN 008-421-120)

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE (this "**Agreement**") dated for reference purposes only as of March 17, 2016, is by and between TSE SERRAMONTE, L.P., a California limited partnership ("**Seller**"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**Buyer**" or "**City**").

RECITALS

A. In connection with the Regional Groundwater Storage and Recovery Project (the "**Project**") of Buyer's Public Utilities Commission, City seeks to acquire certain easement interests on and over that certain real property owned by Seller in the City of Colma, San Mateo County ("**County**"), California, located at 1200 El Camino Real, Colma, California and commonly known as Assessor's Parcel 008-421-120 ("**Seller's Property**").

B. Seller's Property is leased to Kohl's Department Stores, Inc., a Delaware corporation ("**Tenant**"), pursuant to that certain Lease dated October 13, 1978 originally entered into between E.N. Maisel Associates, as landlord, and KMart Corporation, as tenant (as subsequently amended, the "**Lease**"). The landlord's interest under the Lease was subsequently assigned, assumed, and/ or transferred to Seller and the tenant's interest under the Lease was subsequently assigned, assumed, and/ or transferred to Tenant.

C. In anticipation of the easement purchase transactions contemplated by this Agreement, City entered into a License to Enter and Use Property dated January , 2016 with Tenant (the "**License**") to allow certain construction work contemplated by the TCE (defined in Section 1.1(a) (Purchase and Sale of Easements) below).

D. Subject to the terms and conditions of this Agreement, City desires to purchase, and Seller is willing to sell to City, the easement interests described in this Agreement.

IN CONSIDERATION of the respective agreements set forth below, Seller and City agree as follows:

1. PURCHASE AND SALE

1.1 Purchase and Sale of Easements

In connection with the Regional Groundwater Storage and Recovery Project of Seller's Public Utilities Commission, Seller agrees to sell and convey to City, and City agrees to purchase from Seller, subject to the terms, covenants, and conditions set forth below, the following interests in real property (each, an "**Easement**" and collectively, the "**Easements**"):

(a) a temporary construction easement (the "**TCE**") over, across, in, and upon portions of Seller's real property in the City of Colma, San Mateo County ("**County**"), California, located at 1200 El Camino Real, Colma, California and commonly known as Assessor's Parcel 008-421-120 ("**Seller's Property**");

(b) a permanent subsurface easement under, across, and along a portion of Seller's Property (the "**Utilities Easement**") for (i) a sanitary sewer and (ii) an electrical line.

Each portion of Seller's Property to be acquired by City pursuant to this Agreement is referred to in this Agreement individually as an "Easement Area" and collectively as the "Easement Areas."

1.2 Easement Areas; Nature of Easements

The Easement Areas consist of those portions of Seller's Property described in each of the easement deeds attached as **Exhibits A and B** (each a "Deed," and collectively, the "Deeds"). The nature, scope, and conditions of each Easement are set forth in the respective Deed with respect to such Easement.

2. PURCHASE PRICE

2.1 Purchase Price

The purchase price to be paid by City for each of the Easements shall be as follows:

(a) For the TCE, the sum of FIVE THOUSAND SIX HUNDRED FIFTY DOLLARS (\$5,650); and

(b) For the Utilities Easement, the sum of SEVENTEEN THOUSAND FIVE HUNDRED TWENTY DOLLARS (\$17,520).

The total rounded purchase price (rounded) for both Easements is TWENTY-THREE THOUSAND ONE HUNDRED SEVENTY DOLLARS (\$23,170) (the "Purchase Price").

2.2 Payment

On the Closing Date, City shall pay the Purchase Price, adjusted pursuant to the provisions of Article 6 [Expenses], and reduced by any credits due City under this Agreement.

2.3 Funds

All payments made pursuant to this Agreement shall be in legal tender of the United States of America, paid by Controller's warrant or in cash or by wire transfer of immediately available funds. Unless the parties elect to close the transaction without an escrow, payments shall be made to Escrow Holder (defined in Section 5.2 [Escrow; Closing Without an Escrow]), as the escrow agent.

3. CONVEYANCE OF EASEMENT

3.1 Easement Deeds

At the Closing defined in Section 5.1 ["Closing" Defined]), Seller shall convey to City or its designee marketable and insurable title to the Easements, by delivery of the Deeds, each duly executed and acknowledged in the forms of the attached as **Exhibits A and B** free and clear of all exceptions, liens, and encumbrances except solely for the Accepted Conditions of Title (defined in Section 3.2 [State of Title]). Each Deed shall be executed and delivered to City in a recordable form. City may record each of the Deeds in County's Recorder's Office except, because of the temporary nature of the temporary construction easement to be granted as described in Exhibit A, the Deed with respect to such Easement shall not be recorded.

3.2 State of Title

"Accepted Conditions of Title" shall mean, with respect to the Easements (a) the lien of real property taxes, not yet due or payable; and (b) exceptions numbered 4 through 19 of the preliminary title report dated December 4, 2015, bearing Title No. 12-40704613-JM attached as Exhibit C. As a condition precedent to City's obligation to purchase the Easements, Seller shall make commercially reasonable efforts to cooperate with City to obtain a subordination agreement reasonably acceptable to City with the current holders of the existing encumbrance with respect to Seller's Property that secures a loan to Seller and is held by Woodmen of the World Life Insurance Society and/or Omaha Woodmen Life Insurance Society, a Nebraska corporation (the "Existing Encumbrance") at no cost or expense to Seller; provided, however, that the failure to obtain any such subordination agreement shall not constitute a Seller default under this Agreement.

4. CONDITIONS TO CLOSING

4.1 City's Conditions to Closing

The following are conditions precedent to City's obligation to purchase the Easements (collectively, "Conditions Precedent"):

(a) Except to the extent of changes to the Easement Areas that result from City's use and occupancy of any portion of the Easement Areas pursuant to the License, the physical condition of all portions of the Easement Areas shall be substantially the same on the Closing Date as on the date of City's execution of this Agreement, reasonable wear and tear and loss by casualty excepted (subject to the provisions of Article 8 [Risk of Loss]), and as of the Closing Date there shall be no litigation or administrative agency or other governmental proceeding, pending or threatened, that after the Closing could materially adversely affect the value of the Easements or City's ability to use all portions of the Easement Areas for their respective intended use, and no proceedings shall be pending or threatened that could or would cause the change, re-designation, or other modification of the zoning classification of, or of any building or environmental code requirements applicable to, any portions of the Easement Areas.

(b) Seller shall have delivered signed originals of any documents required under Section 3.2, and, unless the parties elect to consummate the transaction without an escrow, Escrow Holder shall be committed at the Closing to issue to City a CLTA owner's policy of title insurance (the "Title Policy") in the amount of the Purchase Price, insuring title to the Easements vested in City free of all exceptions, liens, and encumbrances except only the Accepted Conditions of Title. The Title Policy shall contain such special endorsements as City may reasonably request.

(c) The transactions contemplated by this Agreement shall have been approved by all applicable City departments and agencies, including, without limitation, the San Francisco Public Utilities Commission, at their respective sole discretion, within sixty (60) days after Seller executes and delivers this Agreement to City.

(d) If required by City's Charter, the City's Mayor and the Board of Supervisors, at the sole discretion of each, shall have enacted a resolution approving, adopting, and authorizing this Agreement and the transactions contemplated by this Agreement, within ninety (90) days after Seller executes and delivers this Agreement to City.

(e) Seller shall have delivered the items described in Section 5.4 below [Seller's Delivery of Documents] on or before the Closing.

The Conditions Precedent contained in the foregoing subsections (a) through (e) are solely for City's benefit. If any Condition Precedent is not satisfied, City shall have the right at its sole discretion either to waive in writing the Condition Precedent in question and proceed with the purchase (provided that the Conditions Precedent described in items (c) and (d) above may not be waived except insofar as City elects to extend the deadline for satisfying such item) or, in the alternative, terminate this Agreement. The waiver of any Condition Precedent shall not relieve Seller of any liability or obligation with respect to any representation, warranty, covenant, or agreement of Seller. In addition, the Closing Date may be extended, at City's option, for a reasonable period of time specified by City, to allow such Conditions Precedent to be satisfied, subject to City's further right to terminate this Agreement upon the expiration of the period of any such extension if any such Conditions Precedent remain unsatisfied.

If the sale of both the Easements is not consummated because of a default under this Agreement on the part of Seller or if a Condition Precedent with respect to one or more of the Easements cannot be fulfilled because Seller frustrated such fulfillment by some intentional affirmative act or negligent omission, at its sole election, City may (i) terminate this Agreement by delivery of notice of termination to Seller, whereupon Seller shall pay to City any title, escrow, legal, and inspection fees incurred by City, and neither party shall have any further rights or obligations hereunder, (ii) elect to proceed with Closing with respect to any Easement with respect to which all Conditions Precedent have been waived by City or satisfied and elect to either terminate this Agreement with respect to the remaining Easements not so purchased (pursuant to clause (1) of this paragraph) or continue this Agreement with respect to such remaining Easements (pursuant to clause (3) of this paragraph), or (iii) continue this Agreement pending City's action for specific performance and/or damages (in no event to exceed the amount of the Purchase Price) under and pursuant to this Agreement, including, without limitation, City's costs and expenses incurred in connection with the transactions contemplated by this Agreement. If City elects to proceed to Closing with respect to one, but not both, of the Easements pursuant to clause (ii) above, the Purchase Price with respect to the Easements being purchased will be reduced by the sum of the purchase prices stated in Section 2.1 attributable to the Easement not being purchased and any subsequent Closing with respect to any such Easement not initially purchased shall be for the purchase price stated for such Easement in Section 2.1.

4.2 Seller's Condition to Closing

The following are conditions precedent to Seller's obligation to sell the Easements (collectively, "Seller's Conditions Precedent"):

- (a) Seller shall have received the Purchase Price as set forth in Section 2.1.
- (b) City shall have performed all of its material duties and obligations under the License that are required to be performed pursuant to the License on or prior to Closing and City shall not be in material breach or default of said License Agreement.
- (c) City shall have performed and observed, in all material respects, all covenants and agreements of this Agreement to be performed and observed by City as of Closing.

4.3 Cooperation

Seller and City shall each cooperate with each other and do all acts as may be reasonably requested with regard to the fulfillment of any Conditions Precedent including, without limitation, execution of any documents, applications, or permits, but Seller's representations and warranties of the parties shall not be affected or released by either City or Seller's waiver or fulfillment of any Condition.

5. CLOSING AND POSSESSION

5.1 "Closing" Defined

The consummation of the purchase and sale contemplated hereby (the "Closing") shall occur as provided in this Article 5.

5.2 Escrow; Closing Without an Escrow

(a) Unless the parties agree to consummate the purchase and sale without an escrow as provided in subparagraph (b) below: (i) On or before the Effective Date (as defined in Section 11.17 [General Provisions]), the parties shall open escrow by depositing an executed counterpart of this Agreement with Chicago Title Company at its offices at 1929 Market Street, San Francisco, California 94104 ("Escrow Holder"); (ii) this Agreement shall serve as instructions to Escrow Holder as the escrow holder for consummation of the purchase and sale contemplated hereby; (iii) Seller hereby authorizes City to prepare and submit supplemental escrow instructions in accordance with this Agreement on behalf of both parties, as needed; and (iv) the Closing shall be held and delivery of all items to be made at the Closing under this Agreement shall be made at Escrow Holder's offices.

(b) Notwithstanding the foregoing, the parties may elect by mutual agreement to consummate the purchase and sale without an escrow, in which event the Closing shall occur as described in Section 5.7(b).

5.3 Closing Date

The Closing shall occur ninety (90) days after the Effective Date (as defined in Section 11.17) or on such earlier date as City and Seller may mutually agree (the "Closing Date"), subject to the provisions of Article 4 [Conditions Precedent]. The Closing Date may not be extended without the prior written approval of both Seller and City, except as otherwise expressly provided in this Agreement; provided, that at City's request, the Parties will agree on a reasonable extension of the Closing Date in the event of any delay associated with the obtaining of a subordination agreement with respect to the Existing Encumbrance as contemplated in Section 3.2 [State of Title]. If the Closing does not occur on or before the Closing Date and the parties have deposited documents or funds in escrow, Escrow Holder shall, unless it is notified by both parties to the contrary within five (5) business days after the Closing Date, return such items to the depositor of such documents or funds.

5.4 Seller's Delivery of Documents

(a) At or before the Closing, Seller shall deliver or cause to be delivered to City the following:

- (i) each of the duly executed and acknowledged Deeds;
- (ii) such resolutions, authorizations, or other documents as Escrow Holder (or City if the parties close without an escrow) may reasonably require to demonstrate the authority of Seller to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individuals executing any documents or other instruments on behalf of Seller to act for and bind Seller;
- (iii) any documents needed in order to eliminate title exceptions other than Accepted Conditions of Title; and

(iv) a closing statement in form and content satisfactory to City and Seller (which may be in the form of a letter or memorandum from City, countersigned by Seller, if the parties elect to consummate the transaction without an escrow).

Seller shall also deliver a properly executed California Franchise Tax Board Form 590 certifying that Seller is a California resident (if Seller is an individual) or that Seller has a permanent place of business in California or is qualified to do business in California, if Seller is a corporation, or other evidence satisfactory to City that Seller is exempt from the withholding requirements of Section 18662 of the California Revenue and Taxation Code. Seller acknowledges and agrees that if Seller fails at Closing to deliver to City such certificate, City may be required to withhold and remit to the appropriate tax authority a portion of the Purchase Price pursuant to Section 18662 of the California Revenue and Taxation Code. Any amount properly so withheld and remitted shall be deemed to have been paid by City as part of the Purchase Price, and Seller's obligation to consummate the transaction contemplated in this Agreement shall not be excused or otherwise affected thereby.

(b) Seller shall deliver such items to Seller through escrow, unless the parties elect to close the transaction without an escrow in which event Seller shall deliver the items directly to City for a Closing in accordance with Section 5.7(b).

5.5 City's Delivery of Documents and Funds

(a) At or before the Closing, City shall deliver to Seller the following:

(i) a certificate of acceptance, executed by City's Director of Property, or, with respect to any Easement to be conveyed to City's designee, an authorized agent on behalf of such designee, to be attached to each of the Deeds before recording;

(ii) a closing statement in form and content satisfactory to City and Seller (which may be in the form of a letter or memorandum from City to Seller if the parties elect to consummate the transaction without an escrow);

(iii) funds sufficient to pay City's share of expenses under Article 6; and

(iv) the Purchase Price, as provided in Article 2 above (as it may be adjusted pursuant to the provisions of Section 4.1(c)).

(b) City shall deliver such documents and funds through escrow; however, if the parties elect to consummate the transaction without an escrow, City shall deliver the funds and documents as provided in Section 5.7(b).

5.6 Other Documents; Cooperation

Seller and City shall perform such further acts and execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the parties.

5.7 Closing

(a) **Closing through Escrow.** Subject to Section 5.7(b), at Closing, provided all the conditions to the parties' obligations have been satisfied or waived as provided and permitted by this Agreement, Escrow Holder shall perform the following acts in the following order:

(i) Perform such acts as are necessary in order to deliver title to City subject only to the Accepted Conditions of Title, including recording any deed of reconveyance, subordination agreement, or other documentation as specified in supplemental escrow instructions submitted by City before Closing.

(ii) Deliver the Deeds to City or City's designee;

(iii) Deliver to Seller, or as Seller may instruct, the Purchase Price, less any amount necessary to satisfy any liens, bond demands, delinquent taxes, and Seller's share of expenses and prorations under Article 6;

(iv) Issue the Title Policy to City, if requested to do so by City;
and

(v) Deliver to the appropriate party any other documents, instruments, and sums required by this Agreement.

(b) **Closing without Escrow.** If the parties elect to consummate the purchase and sale without an escrow, City shall effect the Closing on the Closing Date as follows:

(i) City shall: (A) deliver to Seller, or as Seller may instruct, the Purchase Price (less any amount necessary to satisfy any liens, bond demands, delinquent taxes, and Seller's share of expenses and prorations, if applicable, under Article 6), and (B) cause each respective certificate of acceptance for the Deeds to be executed, when:

(1) City has received Seller's documents in accordance with Section 5.4, and

(2) City and/or its designee has received each of the Deeds conveying the Easements to City or its designee duly acknowledged and in a recordable form, subject only to the Accepted Conditions of Title, obtain the Title Policy (if City elects to do so), and deliver to the appropriate party any other documents, instruments, and sums required by this Agreement.

5.8 Possession and Use

With respect to each Easement, the right of possession and use of the Easement Area corresponding to such Easement by City and/or its designees, including the right to remove and dispose of improvements and install and connect utilities, shall commence on the date City's contractor first enters such Easement Area to commence staging for the Project (the "**Possession Date**"), which may occur before the Closing Date. The Purchase Price includes but is not limited to full payment for such possession and use, including interest and damages if any from such date, notwithstanding any other provision of this Agreement. City shall provide Seller with at least thirty (30) days' advance written notice of the Possession Date.

6. EXPENSES

6.1 City's Expenses

City shall pay all escrow fees, title insurance charges, transfer taxes (if any), costs associated with obtaining the subordination agreement and other Title requirements set forth in Section 3.2(a) of this Agreement, if any, and all other costs associated with the purchase transaction contemplated by this Agreement except as otherwise specifically provided in Section 6.2 and Section 6.3.

6.2 Seller's Expenses

Seller shall pay at the Closing any delinquent taxes that may have become a lien against Seller's Property.

6.3 Other Expenses

Any other costs and charges of the Escrow not otherwise provided for in this Article or elsewhere in this Agreement shall be allocated in accordance with the closing customs for the County, as determined by Escrow Holder.

7. AS IS TRANSACTION; REPRESENTATIONS AND WARRANTIES; INDEMNITY

7.1 As Is Sale

City acknowledges that the Easement Areas are being sold in their "AS IS, WHERE IS AND WITH ALL FAULTS" condition. Except for Seller's representations and warranties set forth in Section 7.2 of this Agreement, (collectively, the "Excepted Matters"), no representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether expressed or implied, oral or written, past, present, or future, have been made or are made, and no responsibility has been, or is, assumed by Seller or any of its Agents (as such term is defined in Section 11.8 (Parties and Their Agents; Approvals) of, as to, concerning, or with respect to any aspect whatsoever of the Easement Areas and, except for the Excepted Matters, City agrees that Seller shall have no liability or obligation with respect to any matter relating to the Easement Areas, including, without limitation, with respect to the physical condition and environmental condition on, at, in, under, beneath, emanating from, or affecting the Easement Areas, any patent or latent defects, the amount of square footage of the Easement Areas, the condition of title to Seller's Property that might affect the Easement Areas, or access of or to Easement Areas or the Seller's Property.

Except for the Excepted Matters, City shall rely solely on its own investigation of the Easement Areas and any reports commissioned by or on behalf of City and not on any information or opinions provided by or on behalf of Seller. Except for the Excepted Matters, City shall take the Easement Areas subject to and including all applicable legal requirements, permits, environmental land use restrictions, whether recorded or proposed, and easements as may exist as of Closing and shall cooperate with Seller to make all regulatory filings that may be necessary with respect to any relocation of the Easement Areas as described in Exhibit B.

7.2 Seller Representations and Warranties

(a) **Ownership of Property.** Seller is the sole fee owner of Seller's Property, and will own it at the time of the Closing, free and clear of all liens, leases, occupancy agreements, claims, encumbrances, easements, and rights of way of any nature except only the Accepted Conditions of Title.

(b) **Signing Authority.** Seller and the signatories on Seller's behalf represent and warrant that the signatories on Seller's behalf to this Agreement are authorized to enter into this Agreement to convey real property and that no other authorizations are required to implement this Agreement on behalf of Seller.

(c) **Leases.** There are now, and, at Closing, there will be no-written leases or occupancy agreements affecting any portion of any of the Easement Areas or that would affect City's access to or use of any portion of the Easement Areas as contemplated by the Deeds except for that certain Lease dated October 13, 1978 that was originally entered into between E.N. Maisel Associates and KMart Corporation (as subsequently amended, the "Lease"). Since the date the Lease was executed and delivered by E.N. Maisel Associates and KMart Corporation, their respective rights and obligations under the Lease have been assigned, assumed, and/ or transferred such that Kohl's Department Stores, Inc., a Delaware corporation ("Tenant") is the current tenant under the Lease and Seller is the current landlord under the Lease. Seller will make reasonable good faith efforts to obtain Tenant's consent to City's use of the Easement Area, as necessary, but the failure to obtain such consent shall not constitute a Seller default under this Agreement.

(d) **Easements.** To Seller's actual knowledge (without duty of inquiry), Seller is unaware of any oral leases, occupancy agreements, licenses, or easements (other than those considered as Accepted Conditions of Title) that affect any portion of any of the Easement Areas or that would affect City's access to or use of any portion of the Easement Areas as contemplated by the Deeds.

(e) **No Impediments to Use.** To Seller's actual knowledge (without duty of inquiry), Seller is unaware of any material facts or circumstances that would prevent City from using the Easements after Closing in the normal manner contemplated by the Deeds.

(f) **No Lawsuits.** To Seller's actual knowledge (without duty of inquiry) there are no lawsuits or proceedings pending against or affecting Seller, Seller's Property, or its use that would affect Seller's ability to consummate the sale contemplated by this Agreement.

(g) **No Known Hazardous Materials.** To Seller's actual knowledge (without duty of inquiry), there has been no release during the period Seller has owned Seller's Property, and there is no threatened release of, any Hazardous Material in, on, under, or about Seller's Property. As used in this Agreement, "Hazardous Material" shall mean any material that, because of its quantity, concentration, or physical or chemical characteristics, is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment. "Release" or "threatened release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any of the improvements, or in, on, under, or about the Easement Area.

7.3 Indemnity

City shall indemnify, defend, and hold Seller and its Agents harmless from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages, and liabilities of any kind including, without limitation, the release of Hazardous Materials (collectively, "Losses"), to the extent arising directly out of any activity by City or its Agents pursuant to this Agreement or the License or any breach of City's obligations under this Agreement or the License, except to the extent of Losses caused by the negligence or willful misconduct of Seller or its authorized representatives, and except for Losses resulting from the discovery of pre-existing conditions discovered (and not caused) by any activities undertaken by City or its Agents pursuant to this Agreement.

8. RISK OF LOSS

If any portion of an Easement Area is damaged or destroyed before the Closing Date, then the rights and obligations of Seller and City under this Agreement shall be as follows: City shall have the right, at its election, to terminate this Agreement in its entirety or terminate it only as to that portion of such Easement Area damaged or destroyed. City shall have thirty (30) days after Seller notifies City that an event described in this Article 8 has occurred to make such election by delivery to Seller of an election notice. City's failure to deliver such notice within such thirty (30)-day period shall be deemed City's election to terminate this Agreement in its entirety. If this Agreement is terminated in its entirety or in part pursuant to this Article 8, then City and Seller shall each be released from all obligations under this Agreement pertaining to that portion of the Easement Area affected by such termination. If City elects not to terminate this Agreement in its entirety, Seller shall give City a credit against the Purchase Price at the Closing in an amount proportionate to the percentage reduction, if any, of the square footage of the Easement Area, and this Agreement shall remain in full force and effect.

9. MAINTENANCE; CONSENT TO NEW CONTRACTS

9.1 Maintenance of the Easement Areas

Subject to City's uses of the Easement Areas pursuant to the License, between the date of Seller's execution of this Agreement and the Closing, Seller shall maintain Seller's Property in its current condition and shall make reasonable attempts to enforce the maintenance provisions of the Lease concerning all repairs necessary to maintain Seller's Property in such condition. Seller shall make no changes to the Easement Areas without City's prior, written consent, which shall not be unreasonably withheld or delayed.

9.2 Contracts Affecting the Easement Areas

Except as otherwise provided in this Agreement or by express written consent by City, not to be unreasonably withheld or delayed, after the date of execution of this Agreement, Seller shall not, alienate, lien, encumber, or otherwise transfer any portion of Seller's Property or allow the same to occur, or enter into any lease or contract with respect to any portion of Seller's Property that would survive the Possession Date and impair City's access to or use of any portion of any of the Easement Areas as contemplated by the Deeds.

10. CITY REPRESENTATION RE: EMINENT DOMAIN

City has not instituted or maintained, and on the Closing Date, there shall not be then pending, any action in eminent domain by City as to any portion of Seller's Property.

11. GENERAL PROVISIONS

11.1 Notices

Any notice, consent, or approval required or permitted to be given under this Agreement shall be in writing and shall be given by (a) hand delivery, against receipt, (b) reliable next-business-day courier service that provides confirmation of delivery, or (c) United States registered or certified mail, postage prepaid, return receipt required, and addressed as follows (or to such other address as either party may from time to time specify in writing to the other upon five (5) days' prior, written notice in the manner provided above):

City:

To: San Francisco Public Utilities Commission
525 Golden Gate Avenue, 10th Floor
San Francisco, California 94102
Attention: Brian Morelli

with copy to:

Richard Handel
Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682

Seller:

To: Tse Serramonte, L.P.
c/o Bernard Tse
P.O. Box 5523
San Mateo, CA 94402

with a copy to:

John C. Callan, Jr.
Duane Morris LLP
Spear Tower
One Market Plaza, Suite 2200
San Francisco, CA 94105-1127

A properly addressed notice transmitted by one of the foregoing methods shall be deemed received upon the confirmed date of delivery, attempted delivery, or rejected delivery, whichever occurs first. Any email addresses or facsimile numbers provided above or otherwise by the parties are for convenience of communication; however, neither party may give official or binding notice by e-mail or facsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of an e-mailed or facsimile copy of the notice.

11.2 Brokers and Finders

Neither party has had any contact or dealings regarding the Easements, or any of them, or any communication in connection with the subject matter of this Agreement, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the purchase and sale contemplated in this Agreement. If any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings, or communication, the party through whom the broker or finder makes his or her claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other party from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Section shall survive the Closing.

11.3 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the parties to this Agreement and their respective successors, heirs, administrators and assigns, subject to Section 9.2 [Contracts Affecting the Easement Areas].

11.4 Amendments; Waivers

Except as otherwise provided in this Agreement, (a) this Agreement may be amended or modified only by a written instrument executed by City and Seller, (b) no waiver of any provision of this Agreement will be binding unless executed in writing by the party making the waiver, (c) no waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision, whether or not similar, and (d) no waiver will constitute a continuing waiver unless the written waiver so specifies.

11.5 Continuation and Survival of Representations and Warranties

All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the Closing, shall be deemed to be material, and, together with all conditions, covenants, and indemnities made by the respective parties contained in this Agreement or made in writing pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the Closing, or, to the extent the context requires, beyond any termination of this Agreement.

11.6 Governing Law

This Agreement shall be governed by California law and City's Charter. There shall be no obligation for the payment of money by City under this Agreement unless City's Controller first certifies, pursuant to Section 3.105 of City's Charter, that there is a valid appropriation from which the expenditure may be made and that unencumbered funds are available from the appropriation to pay the expenditure.

11.7 Merger of Prior Agreements; No Inducement

The parties intend that this Agreement (including all of the attached exhibits and schedules and any documents specifically described in this Agreement, which are hereby incorporated into this Agreement by reference) shall be the final, complete, and exclusive expression of their agreement with respect to the subject matter of this Agreement and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, term sheets and prior drafts or changes to such drafts) may be introduced in any judicial, administrative, or other legal proceeding involving this Agreement. The making, execution, and delivery of this Agreement by the parties has been induced by no representations, statements, warranties, or agreements other than those expressed in this Agreement.

11.8 Parties and Their Agents; Approvals

The term "Seller" as used in this Agreement shall include the plural as well as the singular. If there is more than one (1) Seller, then the obligations under this Agreement imposed on Seller shall be joint and several. As used in this Agreement, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors, and representatives of such party. Subject to applicable law, all approvals, consents, or other determinations permitted or required by City under this Agreement shall be made by or through the General Manager of City's Public Utilities Commission or the City's Director of Property, unless otherwise provided in this Agreement.

11.9 Remedies

In the event of a material default or breach of this Agreement by City (which default or breach is not cured within ten (10) days after City's receipt of Seller's written notification specifying such default or breach), then Seller may terminate this Agreement and be released of its obligations under this Agreement and the License, except that Buyer shall be responsible for all restoration and indemnity obligations under this Agreement and the License. This provision shall survive the early termination of this Agreement.

11.10 Interpretation of Agreement

The article, section, and other headings of this Agreement and the table of contents are for convenience of reference only and shall not affect the meaning or interpretation of any provision contained in this Agreement. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa, and each gender reference shall be deemed to include the other and the neuter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each party has been represented or had the opportunity to be represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

11.11 Attorneys' Fees

The prevailing party in any action or proceeding to enforce or interpret, or otherwise arising out of or relating to, this Agreement or any provision of this Agreement (including but not limited to any arbitration, trial, administrative hearing, bankruptcy, or appeal) will be entitled to recover from the other party all of its costs and expenses, including but not limited to reasonable attorneys' fees and experts' fees. For purposes of this Agreement, reasonable attorneys' fees of the City's Office of the City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the City Attorney's services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the Office of the City Attorney.

11.12 Severability

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and shall be enforceable to the extent permitted by law.

11.13 Sunshine Ordinance

Seller understands and agrees that under the City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov. Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to the City under this Agreement are public records subject to public disclosure. Seller hereby acknowledges that the City may disclose any records, information, and materials submitted to the City in connection with this Agreement.

11.14 Intentionally Omitted

11.15 Notification of Limitations on Contributions

Through its execution of this Agreement, Seller acknowledges that Section 1.126 of the San Francisco Campaign and Governmental Conduct Code prohibits any person who contracts with the City for the selling or leasing any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves.

11.16 Non-Liability of City Officials, Employees, and Agents

Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee, agent, or consultant of City shall be personally liable to Seller, its successors and assigns, in the event of any default or breach by City or for any amount that may become due to Seller, its successors and assigns, or for any obligation of City under this Agreement.

11.17 Counterparts

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

11.18 Effective Date

As used in this Agreement, the term "Effective Date" shall mean the date on which both parties shall have executed this Agreement provided the Agreement and the transactions contemplated by the Agreement shall have been authorized (a) in a manner required by law governing Seller, and (b) by a duly adopted resolution of the City's Public Utilities Commission, and (c) if required by City's Charter, by a duly adopted resolution of the City's Board of Supervisors and Mayor.

11.19 Release of Claims

Seller, for itself, its agents, heirs, assigns, successors in interest, and any related or affiliated entities, hereby fully releases and discharges City, its agents, employees, officers, directors, divisions, attorneys, accountants, insurers, successors, and other representatives, and any and all related or affiliated private or public agencies or entities, from any and all causes of action, actions, judgments, liens, indebtedness, obligations, losses, claims, damages, expenses, liabilities, and demands, including, without limitation, any claim arising out of or pertaining, directly or indirectly, to the acquisition or use of the property interest described in this Agreement and/or the construction of any improvements thereon, including without limitation, inverse condemnation, nuisance, severance damages, relocation benefits, reestablishment benefits, the cost or value of any equipment or fixtures, attorneys' fees and costs, loss of goodwill, construction-related dust, noise, traffic, and other related construction activity, and lost rentals or business associated with construction of any improvements, and any other types of related losses or damages. Notwithstanding the above, this release does not apply to any claims for damages or injury to person or property arising from the construction by or on behalf of City of improvements in the Easement Areas or any of City's or its Agents' activities pursuant to the Easement, nor does this release in any manner excuse, waive, or release City from its obligations set forth in this Agreement, the Deeds, or the License (collectively, the "Exceptions").

Seller acknowledges that it may hereafter discover facts or law different from, or in addition to that which it now believes to be true with respect to his/her release of claims as set forth in this Agreement, and understands that by executing this Agreement it is waiving any rights of claims for any other or future benefits or damages to which it might be entitled except for the Exceptions, or any of them. In giving this release, Seller expressly waives the protection of Civil Code Section 1542, which statute provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, EXCEPT WITH RESPECT TO THE LICENSE, SELLER ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL APPROPRIATE LEGISLATION OF CITY'S PUBLIC UTILITIES COMMISSION (AND, IF REQUIRED BY CITY'S CHARTER, APPROPRIATE LEGISLATION OF CITY'S BOARD OF SUPERVISORS) SHALL HAVE BEEN DULY ENACTED APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH LEGISLATION.

[Signatures on next page]

The parties have duly executed this Agreement as of the respective dates written below.

SELLER:

TSE SERRAMONTE, L.P.,
a California limited partnership

By: 

Printed name & Title: ~~BERNARDO TSE, PARTNER~~

Date: July 14, 2016

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____

JOHN UPDIKE
Director of Property

Date: _____, 2016

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: 

Richard Handel,
Deputy City Attorney

ESCROW HOLDER'S ACKNOWLEDGMENT

[Applicable only when the parties will close the transaction through an escrow]

Escrow Holder agrees to act as escrow holder in accordance with the terms of this Agreement. Escrow Holder's failure to execute below shall not invalidate the Agreement between City and Seller.

ESCROW HOLDER:

CHICAGO TITLE COMPANY

By: _____
[signature]

Name: _____
[print name]

Its: _____

Date: _____

[When Seller and City have delivered a copy of this Agreement for Purchase and Sale of Real Estate, executed by Seller and City, to escrow, Escrow Holder should sign this page and transmit a copy to Seller and City. Seller and City agree that a photocopy, scanned copy or faxed copy is adequate for this purpose.]

EXHIBIT A

TO AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE
TEMPORARY CONSTRUCTION EASEMENT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

The undersigned hereby declares this
instrument to be exempt from Recording Fees
(Govt. Code § 27383) and Documentary
Transfer Tax (Rev. & Tax. Code §11922).

(Space above this line reserved for Recorder's use only)

EASEMENT DEED

(Temporary Construction Easement)
(Portion of Assessor's Parcel No. 008-421-120)

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged TSE SERRAMONTE, L.P., a California limited partnership ("**Grantor**"), hereby grants to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**Grantee**") a temporary, non-exclusive easement for construction and access purposes as further described below (the "**Easement**") over, across, under, and upon Grantor's real property located at 1200 El Camino Real, Colma, CA 94014 and commonly known as Assessor's Parcel 008-421-120 ("**Grantor's Property**"). The portion of Grantor's Property that shall be subject to the Easement is more particularly described in the attached **Exhibit 1** and depicted in the attached **Exhibit 2** (the "**Easement Area**").

1. **Nature of Easement.** The Easement Area shall consist of an non-exclusive surface easement that shall be used for general construction-related activities more fully specified in the "Description of Work" set forth in **Exhibit 3** (collectively, the "**Work**"). Subject to the restrictions on Grantee's use set forth in Paragraph 3 [Grantee's Covenants] below, Grantee's rights to use any portion of the Easement Area shall include (a) the right to use equipment, vehicles, machinery, and tools, temporarily place materials and supplies, and store excavated soils that will be used to backfill the trenches in connection with the construction of Grantee's Regional Groundwater Storage and Recovery Project (the "**Project**"); (b) the right to improve, repair, and maintain the Easement Area, including grading, installation of paving and/or crushed rock and management of vegetation impinging on the Easement Area; and (c) such other rights as are reasonably necessary for the full enjoyment and accomplishment of the purposes of the Easement. Grantee's rights under this Easement Deed may be exercised by Grantee or its Agents (defined in Section 9 below). Grantor reserves the right to landscape, pave, or make such other use of the lands included within the Easement Area; provided such use by Grantor shall not

Exhibit A

A-1

interfere with or obstruct Grantee's rights granted pursuant to this Easement Deed to use the Easement Area.

2. Term of Easement. The term of the Easement shall commence on the date (the "**Commencement Date**") that is the later of (a) the date on which Grantee's contractor first enters the Easement Area to commence construction of the Project after Grantee's issuance of a Notice to Proceed to Grantee's general contractor retained to perform the Work or (b) the date of the closing of the purchase transaction with respect to this Easement Deed as contemplated by, and pursuant to, the Agreement for Purchase and Sale of Real Estate dated as of March 17, 2016 between Grantor and Grantee. At the request of either party, Grantor and Grantee shall confirm in writing the Commencement Date. The Easement shall expire on the earlier of the following: the date the Work is completed and Grantee obtains final inspections and sign offs, as applicable; the last day of the third (3rd) full calendar month after the Commencement Date; or August 1, 2016; provided, however, Grantee may extend the term of this Easement Deed on a month-to-month basis not to exceed an additional three (3) months beyond the original expiration of the term of this Easement Deed. Thirty (30) days' written notice will be given to Grantor if Grantee elects to exercise its option for any such extension. Upon expiration of any such extended term, Grantee shall pay Grantor as compensation for Grantee's use of the Easement Areas during the extended term at the rate of One Thousand Eight Hundred Eighty-three Dollars (\$1,883) for each monthly period of such extended term. Compensation due for any fractional month shall be prorated based on a thirty (30)-day month. Upon expiration of the term of this Easement, promptly after Grantor's written request, City will execute and deliver a quit claim deed or similar instrument that reflects the termination of City's rights to use the Easement Area under and pursuant to this Easement Deed.

3. Grantee's Covenants. During the term of this Easement Deed, Grantee shall not interfere in any material manner with Grantor's regular merchandise deliveries, the uploading and unloading of merchandise, or the ability of Grantor's Agents and vendors to have reasonable access to Grantor's loading docks for such purposes or to Grantor's trash/recycling bins or compactors. Prior to the commencement of any Work, Grantee shall require its contractors and subcontractors performing the Work to obtain appropriate commercial general liability, property damage, and workers' compensation insurance policies with commercially reasonable policy limits and to name Grantor and any lessee of Grantor with respect to the Easement Area (a "**Grantor Lessee**") as additional insureds under such insurance policies.

4. Restoration. Upon the earlier of expiration of the term of the Easement or Grantee's completion of the Work, Grantee shall restore, as nearly as reasonably possible, the surface of the Easement Area to its condition immediately prior to the commencement of the work related to the Work.

5. Repair of Damage. If any portion of the Property is damaged by Grantee or its Agents in the exercise of the entry rights under this Easement Deed, Grantee shall repair such damage or replace the damaged item at its sole cost, or at Grantee's election and, with Grantor's consent, shall compensate Grantor for the damage. Further, upon the earlier of the date the Work is completed or the date of the expiration of the term of this Easement Deed, Grantee shall restore the surface of the Easement Areas and any adjoining portion of the Property to the extent damaged by Grantee's exercise of its rights to access the Easement Areas pursuant to this Easement Deed to substantially the same condition as that which existed immediately prior to the commencement of the Work and remove all of Grantee's facilities, or abandon them in place in accordance with Grantor's reasonable specifications. Grantee's obligation to restore the Easement Areas and any such damaged portion of Grantor's Property will include the removal of any material introduced to, or released upon, any portion of the Easement Areas or Grantor's

Exhibit A

A-2

Property by Grantee or its Agents that, because of its quantity, concentration, or physical or chemical characteristics, is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment (collectively, "Hazardous Materials"). Grantee's obligations under this Section 5 shall survive the termination of this Easement Deed.

6. Indemnity. Grantee shall indemnify, defend, and hold Grantor and any Grantor Lessee harmless from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages, and liabilities of any kind including, without limitation, the release of Hazardous Materials (collectively, "Losses"), to the extent arising directly out of any activity by Grantee or its Agents pursuant to this Easement Deed or any breach of Grantee's obligations under this Easement Deed, except to the extent of Losses caused by the active negligence or willful misconduct of Grantor or any Grantor Lessee or their respective Agents, and except for Losses resulting from the discovery of pre-existing conditions discovered (and not caused or released) by any activities undertaken by Grantee or its Agents pursuant to this Easement Deed. Grantee's obligations under this Section 6 shall survive the termination of this Easement Deed.

7. Notices. Any notice, consent, or approval required or permitted to be given under this Easement Deed shall be in writing and shall be given by (a) hand delivery, against receipt, (b) reliable next-business-day courier service that provides confirmation of delivery, or (c) United States registered or certified mail, postage prepaid, return receipt required, and addressed as follows (or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above):

Grantee:

To: San Francisco Public Utilities Commission
525 Golden Gate Avenue, 10th Floor
San Francisco, California 94103
Attention: Brian Morelli,
WSIP Right of Way Manager

With a copy to:

Richard Handel, Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682

Grantor:

To: Tse Serramonte, L.P.
c/o Bernard Tse
P.O. Box 5523
San Mateo, CA 94402

With a copy to:

John C. Callan, Jr.
Duane Morris LLP
Spear Tower
One Market Plaza, Suite 2200
San Francisco, CA 94105-1127

Exhibit A

A-3

With a copy to:

Kohl's Department Stores, Inc.
N56 W17000 Ridgewood Drive
Menomonee Falls, WI 53051
Attn: Law Dept.

A properly addressed notice transmitted by one of the foregoing methods shall be deemed received upon confirmed delivery, attempted delivery, or rejected delivery. Any e-mail addresses or facsimile numbers provided by one party to the other are for convenience of communication only; neither party may give official or binding notice by e-mail or facsimile.

8. Run with the Land. The provisions of this Easement Deed shall run with the land, burden the Easement Area, and bind and inure to the benefit of the respective successors and assigns of Grantee and Grantor. In the event Grantor sells, conveys, or assigns any property interest encumbered by the Agreement, Grantor shall notify the successor or assignee of the rights and obligations of both parties as stated in this Easement Deed.

9. Agents. As used in this Easement Deed, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors, subcontractors, suppliers, consultants, licensees, and representatives of such party.

10. Exhibits. The Exhibits referenced in this Easement Deed are attached to and made a part of this Easement Deed.

11. Counterparts. This Easement Deed may be executed in counterparts, each of which shall be an original, but all counterparts shall constitute one instrument.

[Remainder of page intentionally left blank.]

Exhibit A

A-4

Executed as of this _____ day of _____, 2016.

GRANTOR:

TSE SERRAMONTE, L.P.,
a California limited partnership

By: _____

Date: _____, 2016

By: _____

Date: _____, 2016

ACCEPTED:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____

John Updike
Director of Property

PUC Resolution: _____

Dated: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____

Richard Handel, Deputy City Attorney

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by this deed dated _____, from the Grantor to the City and County of San Francisco, is hereby accepted pursuant to Board of Supervisors' Resolution No. 18110 Series of 1939, approved August 7, 1957, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

By: _____
JOHN UPDIKE
Director of Property.

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of _____)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of _____)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit A
A-7

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of _____)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of _____)

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit A
A-8

September 04, 2015

Exhibit "A"
LEGAL DESCRIPTION

All that real property situate in the Town of Colma, County of San Mateo, State of California, being a portion of Parcel 1 as described in that certain Grant Deed, conveyed to TSE Serramonte L.P., Recorded December 6, 2002 as Document No. 2002-258094, Official Records of San Mateo County, described as follows:

BEGINNING at the intersection of the southeasterly right-of-way line of Serramonte Boulevard with the northeasterly line of the 60' wide Hetch Hetchy right-of-way as shown on that certain Amended Parcel Map recorded on November 5, 1980, in Book 50 of Parcel Maps at Page 50, San Mateo County Records;

thence along said southeasterly right-of-way line, North 50°55'58" East, 25.00 feet to the centerline of Fifth Avenue (now abandoned);

thence along said centerline, South 39°04'02" East, 184.77 feet to the **TRUE POINT OF BEGINNING**;

thence North 50°48'10" East, 77.25 feet;

thence South 39°26'38" East, 14.43 feet;

thence South 30°13'23" West, 83.00 feet;


thence North 39°04'02" West, 43.76 feet to the **TRUE POINT OF BEGINNING**.

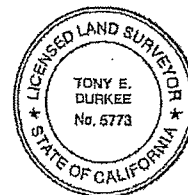
Containing an area of 2,269 square feet, more or less.

All bearings and distances shown on this Exhibit are based upon the North American Datum of 1983 (NAD 83), California Coordinate System, Zone III, Epoch 1991.35. All distances shown hereon are grid distances. To convert to ground distance, multiply expressed distances by 1.0000700. Areas shown are calculated using grid distances. To convert to ground area, multiply the expressed area by 1.0001400.

A plat showing the above-described parcel is attached herein and made a part hereof as Exhibit "B".

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.


Tony E. Durkee, PLS5773

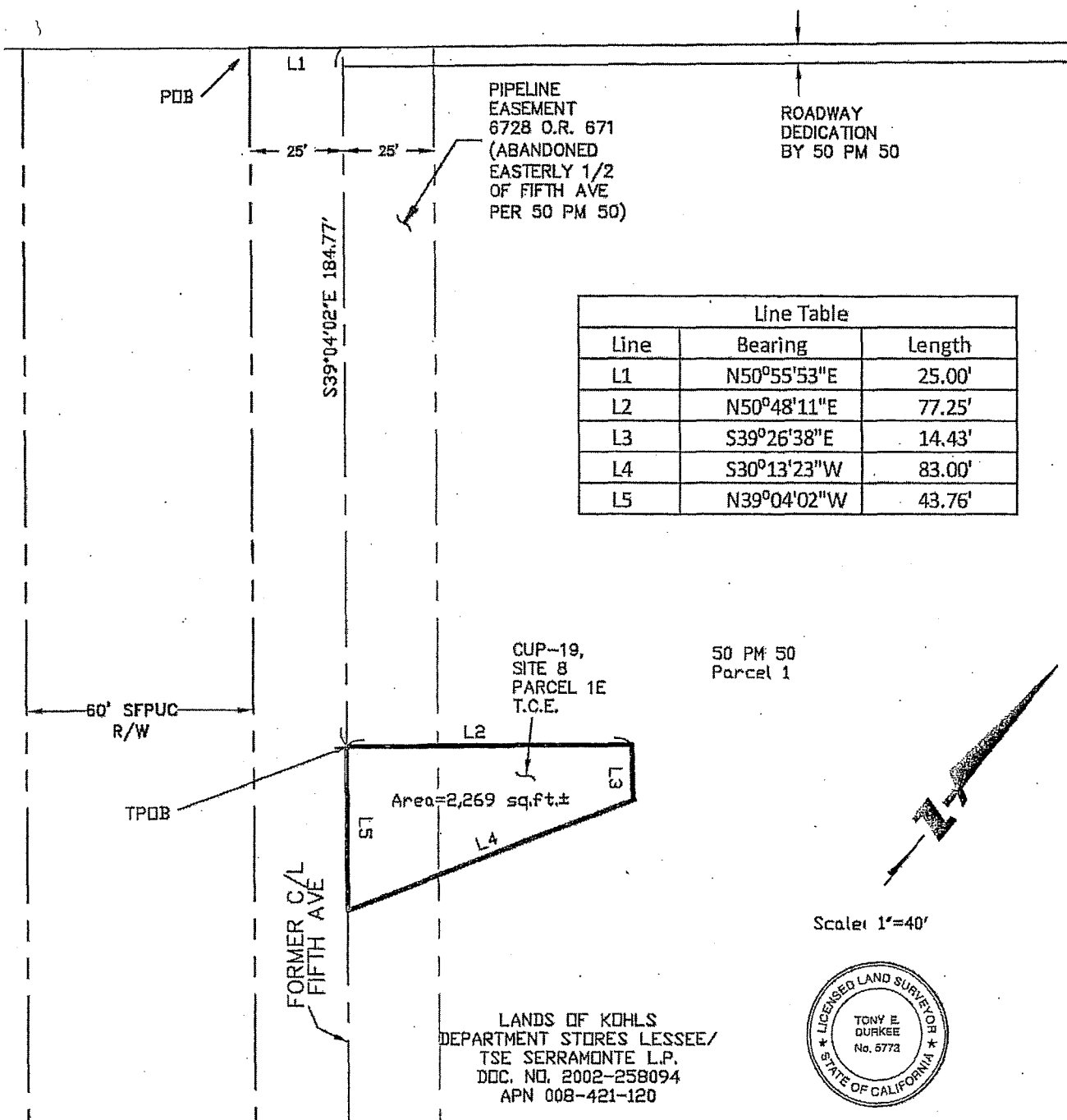


END OF DESCRIPTION

EXHIBIT "B"

SERRAMONTE

BOULEVARD



PIPELINE
EASEMENT
6728 O.R. 671
(ABANDONED
EASTERLY 1/2
OF FIFTH AVE
PER 50 PM 50)

ROADWAY
DEDICATION
BY 50 PM 50

Line Table		
Line	Bearing	Length
L1	N50°55'53"E	25.00'
L2	N50°48'11"E	77.25'
L3	S39°26'38"E	14.43'
L4	S30°13'23"W	83.00'
L5	N39°04'02"W	43.76'

CUP-19,
SITE 8
PARCEL 1E
T.C.E.

50 PM 50
Parcel 1

60' SFPUC
R/W

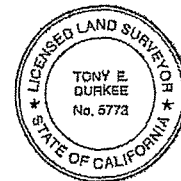
TPOB

Area=2,269 sq.ft.±

FORMER C/L
FIFTH AVE

Scale: 1"=40'

LANDS OF KOHL'S
DEPARTMENT STORES LESSEE/
TSE SERRAMONTE L.P.
DOC. NO. 2002-258094
APN 008-421-120



City and County of San Francisco
Public Utilities Commission
Real Estate Services

CUP-19, Site 8, Parcel 1E

Kohl's Plat 1E.dwg 09/04/2015

City of Colma San Mateo County

EXHIBIT 3 TO
TEMPORARY CONSTRUCTION EASEMENT DEED

DESCRIPTION OF THE WORK

The following Work will occur on the Easement Area:

A. Sanitary Sewer Installation

1. Excavation of two-foot wide trench from SFPUC site to Sanitary Sewer Connection Point. Steel plates will be placed over any open trench from 6:00 pm to 6:00 am each day until the trench is backfilled and compacted.
2. Installation of 8-inch diameter sanitary sewer pipe.
3. Construction of a new manhole with an at grade cover connecting new Sanitary Sewer to Existing Sanitary Sewer.
4. Backfill and compaction of trench.
5. Restoration of site to existing condition.

B. Electrical Conduit Installation

1. Excavation of two-foot wide trench from new transformer pad at SFPUC site to existing PG&E transformer. Steel plates will be placed over any open trench from 6pm to 6am each day until the trench is backfilled and compacted.
2. Installation of Electrical Conduit.
3. Installation of 3'0" x 5'0" full vehicular traffic rate pullbox (H-20 Rating) underground with an at grade cover.
4. Backfill and compaction of trench.
5. Restoration of site to existing condition.

C. Construction Activities

1. General construction-related activities in the Easement Area, including (i) the right to use equipment, vehicles, machinery and tools; temporarily place materials and supplies and store excavated soils that will be used to backfill the trenches and (ii) the right to improve, repair, and maintain the Easement Area, including grading and installation of paving on the Easement Area. Such construction activities, placements, or storage of soils shall not interfere with the ability of Grantor Lessee's (as of the date of this Easement Deed, "Kohl's") delivery trucks to access Kohl's loading docks or Kohl's vendor's trucks to access trash/recycling bins or compactors. Grantee understands that all staging shall occur on Grantee's property. Grantee or Grantee through its general contractor, shall provide at least five (5) days written notice to Grantor prior to the initial commencement of any Work.

EXHIBIT B

TO AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE

PERMANENT UTILITY EASEMENT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102

The undersigned hereby declares this
instrument to be exempt from Recording Fees
(Govt. Code § 27383) and Documentary
Transfer Tax (Rev. & Tax. Code §11922).

(Space above this line reserved for Recorder's use only)

EASEMENT DEED

(Utility Easement (Sanitary Sewer and Utility Lines))

(Portion of Assessor's Parcel No. 008-421-120)

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, TSE SERRAMONTE, L.P., a California limited partnership ("**Grantor**"), hereby grants to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**Grantee**"), a nonexclusive subsurface easement and nonexclusive surface easement (the "**Easement**") over, across, along, under, and upon a portion of Grantor's real property located at 1200 El Camino Real, Colma, CA 94014 and commonly known as Assessor's Parcel 008-421-120 ("**Grantor's Property**"). The portion of Grantor's Property that shall be subject to the Easement is more particularly described in the attached **Exhibit 1** and depicted in the attached **Exhibit 2** (the "**Easement Area**"). The Easement rights granted by this Easement Deed include the right of Grantee to construct, reconstruct, renew, alter, operate, maintain, replace (with the initial or any other size) and repair such:

(a) sanitary sewer or sewers as the Grantee shall from time to time elect for conveying groundwater, wastewater, effluent, and similar liquids or waste and all necessary maintenance access structures, laterals, and appurtenances thereto and

(b) electrical power lines as the Grantee shall from time to time elect and all necessary maintenance access structures, laterals, and appurtenances thereto.

The improvements described in subparagraphs (a) and (b) above, and any other improvements made by Grantee to the Easement Area pursuant to this Easement Deed may sometimes be referred to in this Easement Deed as the "**Grantee Improvements.**" Maintenance access structures (manholes, etc.) constructed within the Easement Area shall not be covered by earth or other material and shall remain in an exposed and accessible condition at all times for routine and/or emergency maintenance that may be deemed necessary by the Grantee from time to time.

1. **Nature of Easement.** The Easement includes rights of reasonable ingress, egress, and emergency access to the Easement Area over and across the remaining portion of the Grantor's Property, provided that such rights of ingress, egress, and emergency access shall be limited to established roadways, pathways, avenues, or other routes to the extent possible and as reasonably necessary for the proper use of the rights granted by this Easement Deed. Grantee is also granted the right to clear obstructions and vegetation from the Easement Area as may be required for the proper use of the other rights granted by this Easement Deed and the right to do such other things as are necessary for the full enjoyment and accomplishment of the purposes of the Easement. Grantee's rights under this Easement Deed may be exercised by Grantee's Agents (defined in Section 9 below).

2. **Grantor's Use.** Grantor reserves the right to landscape, pave, or make such other use of the lands included within the Easement Area to the extent such use is not inconsistent with the Grantee's use; however, except after any relocation of the Easement required by Grantor pursuant to Section 4 below, such use by Grantor shall not include the planting of trees or construction of permanent structures, including but not limited to buildings, outbuildings, swimming pools, tennis courts, retaining walls, decks, patios, or other concrete architectural structures within the Easement Area, or any other activity which may interfere with Grantee's full enjoyment of the Easement.

3. **Maintenance of Improvements.** Grantee shall be solely responsible for repairing and maintaining all of the Grantee Improvements placed in, on, or under the Easement Area in good, safe, and secure condition, and Grantor shall have no duty whatsoever for any repair or maintenance of the Grantee Improvements. After Grantor or its Agents complete the installation of the Grantee Improvements and repave the portions of the Easement Area that are damaged, disturbed, or excavated in connection with such installation, Grantor shall maintain the surface of the Easement Area, provided that any damage, subsidence, or other injury to the Easement Area to the extent resulting from the presence of the Grantee Improvements shall be remedied or repaired by Grantee. Grantee shall provide Grantor with reasonable notice prior to performing any routine repair or maintenance activities with respect to the Grantee Improvements. With respect to any emergency repairs of the Grantee Improvements, Grantee shall provide such notice to Grantor as is reasonable under the circumstances. All repair and maintenance work shall be performed promptly as required by the circumstances and Grantee shall use commercially reasonable efforts to minimize any interference with the operations on Grantor's Property of Grantor, Grantor's Agents, or any lessee of Grantor that is entitled to use any portion of the Easement Area (a "**Grantor's Lessee**"). After any maintenance or repairs that require or result in any material disruption to the surface of the Easement Area, Grantor shall promptly restore the Easement Area to substantially the same condition as that prior to the commencement of any such repair or maintenance.

4. **Relocation of Easement.** If Grantor ever determines, at its sole discretion, that it wishes to redevelop Grantor's Property such that the construction, renovation, or alteration of new or existing structures or other improvements upon, under, near, or across the Easement Area would necessitate a rearrangement, relocation, reconstruction, or removal of the Grantee Improvements, Grantor may require Grantee to relocate the Grantee Improvements at Grantee's sole expense to a location (the "**New Easement Area**") specified by Grantor within a portion of Grantor's Property depicted in the attached **Exhibit 3** (the "**Easement Relocation Area**") that is at least equal in size as the initial Easement Area described in **Exhibit 1** and depicted in **Exhibit 2** of this Easement Deed. Any such relocation shall be subject to the following conditions.

4.1 Grantor shall give Grantee at least one hundred twenty (120) days' prior written notice (the "**Relocation Notice**") of the proposed relocation that identifies the New Easement Area. The location of the New Easement Area and the installation of the Grantee Improvements thereon shall not result in any conflict with the terms and conditions of any then-existing exclusive easement or other servitude encumbering the New Easement Area so as to be

inconsistent with Grantee's use and enjoyment of its rights under this Easement Deed. Grantor shall have the right to require the relocation of Grantee's Improvements anywhere in the Easement Relocation Area; but shall consider reasonable requests by, or input from, Grantee in determining the optimal location of the New Easement Area, so long as, at Grantor's sole discretion, the implementation of such requests and input is commercially feasible and would not materially delay Grantor's development plans beyond the one-hundred-twenty (120)- days or more time period set forth in the Relocation Notice. Grantee shall be responsible for the reasonable costs incurred in the preparation of any survey, legal description, or plat map or other diagram required in connection with the relocation of the Grantee Improvements and the documentation of the New Easement Area in connection with this Easement Deed.

4.2 At Grantee's option, Grantor shall make commercially reasonable efforts to obtain an appropriate agreement with the holders of monetary liens encumbering the New Easement Area to subordinate their respective interests in the New Easement Area and make such interests subject to all of Grantee's rights under, and all of the terms, covenants, and conditions of, this Easement Deed.

4.3 Grantor shall provide a written confirmation in a form reasonably acceptable to Grantee that Grantee's use of the New Easement Area shall be consistent with the rights and privileges provided for by this Easement Deed with respect to the Easement Area.

4.4 Upon relocation of the Grantee Improvements pursuant to this Section 4, Grantee shall comply with its restoration obligations of the original Easement Area pursuant to Section 5 below.

4.5 Grantor's right to require Grantee to relocate the Easement Area as contemplated by this Section 4 may be exercised only one time.

Grantee shall use reasonable, diligent efforts to vacate the then existing Easement Area as soon as commercially practicable but no later than one hundred twenty (120) days of its receipt of Grantor's relocation notice required by this Section 4, or such later date as may then be agreed to by the parties.

5. Grantee's Facilities after Abandonment or Relocation of Easement. If Grantee permanently abandons use of the Grantee Improvements placed in, on, across, or under the Easement Area or is required to relocate the Easement Area pursuant to Section 4 above, Grantee shall remove all of the Grantee Improvements installed or maintained by Grantee within the Easement Area, or abandon them in place in accordance with Grantor's reasonable specifications, and Grantee shall restore the Easement Area to substantially the same condition prior to the installation of the Grantee Improvements (including, without limitation, the remediation of any of Hazardous Materials (defined in Section 6 below) released on or about Grantor's Property that directly results from any activity by Grantee or its Agents), subject to all applicable permits, rules, regulations, and applicable laws, all at Grantee's sole cost and expense.

6. Indemnity. Grantee shall indemnify, defend, and hold Grantor, any Grantor Lessee, and Grantor's agents, employees, officers, successors, and assigns (collectively, "**Grantor Indemnitees**") harmless from and against any and all demands, claims, legal or administrative proceedings, losses, costs, penalties, fines, liens, judgments, damages, and liabilities of any kind including, without limitation, the release of Hazardous Materials (collectively, "**Losses**"), to the extent arising directly out of (a) any activity by Grantee or its Agents pursuant to this Easement Deed or (b) any breach of Grantee's obligations under this Easement, except to the extent of Losses caused by the active negligence or willful misconduct of Grantor, any Grantor Lessee, or any of their respective Agents, and except for Losses resulting from the discovery of pre-existing conditions discovered (and not caused or released) by any activities undertaken by Grantee or its Agents pursuant to this Easement Deed. Grantee's

obligations under this Section 6 shall survive the termination of this Easement Deed. "**Hazardous Materials**" include material introduced to or released upon any portion of the Easement Areas or Grantor's Property by Grantee or its Agents that, because of its quantity, concentration, or chemical characteristics, is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment.

7. **Notices.** Any notice, consent, or approval required or permitted to be given under this Easement Deed shall be in writing and shall be given by (a) hand delivery, against receipt, (b) reliable next-business-day courier service that provides confirmation of delivery, or (c) United States registered or certified mail, postage prepaid, return receipt required, and addressed as follows (or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above):

Grantee:

To: San Francisco Public Utilities Commission
525 Golden Gate Avenue, 10th Floor
San Francisco, California 94103
Attention: Brian Morelli,
WSIP Right of Way Manager

With a copy to: Richard Handel, Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682

Grantor:

To: Tse Serramonte, L.P.
c/o Bernard Tse
P.O. Box 5523
San Mateo, CA 94402

With a copy to: John C. Callan, Jr.
Duane Morris LLP
Spear Tower
One Market Plaza, Suite 2200
San Francisco, CA 94105-1127

A properly addressed notice transmitted by one of the foregoing methods shall be deemed received upon confirmed delivery, attempted delivery, or rejected delivery. Any e-mail addresses or facsimile numbers provided by one party to the other are for convenience of communication only; neither party may give official or binding notice by e-mail or facsimile.

8. **Run with the Land.** The provisions of this Easement Deed shall run with the land, burden the Easement Area, and bind and inure to the benefit of the respective successors and assigns of Grantee and Grantor.

9. **Agents.** As used in this Easement Deed, the term "**Agents**" when used with respect to either party shall include the agents, employees, officers, contractors, subcontractors, suppliers, consultants, licensees and representatives of such party.

10. **Exhibits.** The Exhibits referenced in this Easement Deed are attached to and made a part of this Easement Deed.

Exhibit B

8 B74

11. Counterparts. This Easement Deed may be executed in counterparts, each of which shall be an original, but all counterparts shall constitute one instrument.

[Remainder of page intentionally left blank.]

Executed as of this _____ day of _____, 2016.

GRANTOR:

TSE SERRAMONTE, L.P.,
a California limited partnership

By: _____

Date: _____, 2016

By: _____

Date: _____, 2016

ACCEPTED:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____

John Updike
Director of Property

PUC Resolution: _____

Dated: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____

Richard Handel, Deputy City Attorney

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by this deed dated _____, from the Grantor to the City and County of San Francisco, is hereby accepted pursuant to Board of Supervisors' Resolution No. 18110 Series of 1939, approved August 7, 1957, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

By: _____
JOHN UPDIKE
Director of Property

Exhibit B
B-7

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

ss

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.
Witness my hand and official seal.

Signature _____ (Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

ss

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.
Witness my hand and official seal.

Signature _____ (Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

SS

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____ (Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

SS

On _____, before me, _____, a notary public in and for said State, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under Penalty of Perjury under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature _____ (Seal)

September 4, 2015

Exhibit "A"
LEGAL DESCRIPTION

All that real property situate in the Town of Colma, County of San Mateo, State of California, being a portion of Parcel 1 as described in that certain Grant Deed, conveyed to TSE Serramonte L.P., Recorded December 6, 2002 as Document No. 2002-258094, Official Records of San Mateo County, being a 10 foot wide strip of land lying 5 feet on each side of the following centerline, described as follows:

BEGINNING at the intersection of the southeasterly right-of-way line of Serramonte Boulevard with the northeasterly line of the 60' wide Hetch Hetchy right-of-way as shown on that certain Amended Parcel Map recorded on November 5, 1980, in Book 50 of Parcel Maps at Page 50, San Mateo County Records;
thence along said southeasterly right-of-way line, North 50°55'58" East, 25.00 feet to the centerline of Fifth Avenue (now abandoned);
thence along said centerline, South 39°04'02" East, 204.53 feet to the TRUE POINT OF BEGINNING;
thence North 35°18'13" East, 46.10 feet;
thence South 54°41'47" East, 4.01 feet;
thence North 35°18'13" East, 20.31 feet;
thence South 54°41'47" East, 10.00 feet;
thence South 35°18'13" West, 70.32 feet;
thence North 39°03'54" West, 14.55 feet to the TRUE POINT OF BEGINNING.

Containing an area of 876 square feet, more or less.

All bearings and distances shown on this Exhibit are based upon the North American Datum of 1983 (NAD 83), California Coordinate System, Zone III, Epoch 1991.35. All distances shown hereon are grid distances. To convert to ground distance, multiply expressed distances by 1.0000700. Areas shown are calculated using grid distances. To convert to ground area, multiply the expressed area by 1.0001400.

A plat showing the above-described parcel is attached herein and made a part hereof as Exhibit "B".

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors' Act.

Tony E. Durkee
Tony E. Durkee, PLS5773



END OF DESCRIPTION

EXHIBIT "B"

SERRAMONTE

BOULEVARD

POB

L1

S39°04'02"E 204.53'

FORMER C/L
FIFTH AVE

60' SFPUC
R/W

TPOB

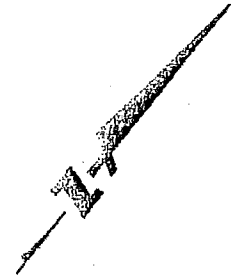
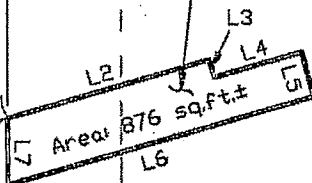
PIPELINE
EASEMENT
6728 O.R. 671
(ABANDONED
EASTERLY 1/2
OF FIFTH AVE
PER 50 PM 50)

ROADWAY
DEDICATION
BY 50 PM 50

Line Table		
Line	Bearing	Length
L1	N50°55'53"E	25.00'
L2	N35°18'13"E	46.10'
L3	S54°41'47"E	4.01'
L4	N35°18'13"E	20.31'
L5	S54°41'47"E	10.00'
L6	S35°18'13"W	70.32'
L7	N39°03'54"W	14.55'

CUP-19,
SITE 8&C
Underground Utility
Easement

50 PM 50
Parcel 1



Scale: 1"=40'

LANDS OF KOHLS
DEPARTMENT STORES LESSEE/
TSE SERRAMONTE L.P.
DOC. NO. 2002-258094
APN 008-421-120



City and County of San Francisco
Public Utilities Commission
Real Estate Services

CUP-19, Site 8, Parcel 1 B&C

Kohl's Plat 1B&C.dwg 09/04/2015.

City of Colma San Mateo County



CHICAGO TITLE COMPANY

PRELIMINARY REPORT

In response to the application for a policy of title insurance referenced herein, **Chicago Title Company** hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company, a Nebraska corporation.

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

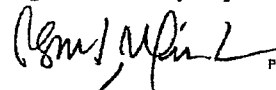
It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.


Countersigned




Chicago Title Company

BY



President

ATTEST



Secretary



Chicago Title Company

ISSUING OFFICE: 2150 John Glenn Drive, Suite 300 • Concord, CA 94520
925 288-8000 • FAX 925 521-9562

PRELIMINARY REPORT

Amended

Title Officer: Jeff Martin

Title No.: 12-**40704613**-B-JM

Locate No.: CACTI7741-7741-2407-0040704613

TO: Chicago Title Company
455 Market Street, 21st Floor
San Francisco, CA 94105

ATTN: Nicole Carr
YOUR REFERENCE: 160320956

PROPERTY ADDRESS: 1200 El Camino Real, Colma, California

EFFECTIVE DATE: December 4, 2015, 07:30 A.M.

The form of policy or policies of title insurance contemplated by this report is:

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A Fee
2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

TSE Serramonte L.P., a California limited partnership
3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

\SP 12/11/2012

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF COLMA, COUNTY OF SAN MATEO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL 1, AS SHOWN AND DESIGNATED ON THAT CERTAIN PARCEL MAP ENTITLED, "LANDS OF E.N. MAISEL AND ASSOCIATES AND LANDS OF CYPRESS ABBEY, BEING A RESUBDIVISION OF THE LANDS OF E.N. MAISEL AND ASSOCIATES, AS RECORDED IN BOOK 7759, OFFICIAL RECORDS, IMAGE 1328 AND A PORTION OF THE LANDS OF CYPRESS ABBEY AS RECORDED IN BOOK 701, PAGE 42, ALSO BEING A FURTHER RESUBDIVISION OF THE VILLA HOMESTEAD ASSOCIATES, AS RECORDED IN VOLUME 'C' OF MAPS, AT PAGE 52, SAN MATEO COUNTY RECORDS", WHICH MAP WAS FILED IN THE OFFICE OF THE RECORDER OF SAN MATEO COUNTY, CALIFORNIA, ON MARCH 21, 1980, IN BOOK 49 OF PARCEL MAPS, PAGES 63 AND 64 AND AMENDED BY PARCEL MAP RECORDED NOVEMBER 5, 1980, IN VOLUME 50 OF PARCEL MAPS, PAGE 50.

EXCEPTING THEREFROM, ALL THAT PORTION THEREOF (LYING WITHIN THOSE PORTIONS OF LOTS 1 THROUGH 23, INCLUSIVE, OF THE "RE-SUBDIVISION OF LOTS 23 AND 24 OF THE VILLA HOMESTEAD ASSOCIATION", THE MAP OF WHICH WAS FILED FOR RECORD JULY 18, 1912) DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA, DATED SEPTEMBER 23, 1926, RECORDED NOVEMBER 16, 1926, IN BOOK 272 OF OFFICIAL RECORDS, PAGE 228.

TOGETHER WITH THE RIGHTS AND EASEMENTS IN AND TO THE "COMMON AREA", INCLUDING LOT 2, AS SHOWN AND DESIGNATED ON SAID PARCEL MAP, CREATED AND DESCRIBED IN THE "COVENANTS FOR OPERATION", MAINTENANCE AND RECIPROCAL EASEMENTS" BY E.N. MAISEL & ASSOCIATES, RECORDED OCTOBER 23, 1980, IN BOOK 7999, PAGE 670, OFFICIAL RECORDS.

ASSESSOR'S PARCEL NO. 008-421-120 JOINT PLANT NOS. 008-042-421-01A
008-042-421-02A
008-042-421-03A
008-042-421-08A

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. Property taxes, including any personal property taxes and any assessments collected with taxes are as follows:

Code Area: 07-001
Tax Identification No.: 008-421-120
Fiscal Year: 2015-2016
1st Installment: \$136,315.81, Paid
2nd Installment: \$136,315.81, Open
Exemption: \$0.00
Land: \$18,691,518.00
Improvements: \$3,785,619.00
Personal Property: \$0.00

2. Prior to close of escrow, please contact the Tax Collector's Office to confirm all amounts owing, including current fiscal year taxes, supplemental taxes, escaped assessments and any delinquencies.

3. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 (commencing with Section 75) or Part 2, Chapter 3, Articles 3 and 4, respectively, of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A or as a result of changes in ownership or new construction occurring prior to Date of Policy.

4. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: State of California
Purpose: Pipe culvert to be used for drainage
Recorded: December 21, 1915, Book 247, Page 215, of Official Records
Affects: Portion of the herein described property

5. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: State of California
Purpose: Pipe culvert to be used for drainage
Recorded: December 21, 1915, Book 250, Page 290, of Official Records
Affects: Portion of the herein described property

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: City and County of San Francisco
 Purpose: Water pipelines
 Recorded: February 16, 1949, Book 1624, Page 436, of Official Records
 Affects: A strip of land 20 feet in width, adjacent to El Camino Real

7. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Town of Colma and the City and County of San Francisco
 Purpose: Water pipe lines
 Recorded: October 31, 1974, Book 6728, Page 671, of Official Records
 Affects: The abandoned one-half of "Fifth Street" laying within said land

8. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the 21st of March, 1980, in Book 49 of Parcel Maps, Pages 63 and 64.

Purpose: Roadway
 Affects: Northwesterly 5 feet

9. **Matters** contained in that certain document entitled "Guarantee Agreement" dated June 11, 1980, executed by E.N. Maisel and Associates, a Michigan general partnership executed by and between Town of Colma recorded July 3, 1980, Book 7969, Page 1986, Series No. 63062AP, of Official Records.

Reference is hereby made to said document for full particulars.

10. **Covenants, conditions and restrictions** in the declaration of restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law.

Recorded: October 23, 1980, Book 7999, Page 670, Series No. 1363AR, of Official Records

11. **An unrecorded lease** with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document

Entitled: Consent for Operation, Maintenance and Reciprocal Easements
 Lessor: E.N. Maisel and Associates, a Michigan partnership
 Lessee: K-Mart Corporation
 Recorded: October 23, 1980, Book 7999, Page 670, Series No. 1363AR, of Official Records

The present ownership of the leasehold created by said lease and other matters affecting the interest of the lessee are not shown herein.

An agreement to amend or modify certain provisions of said lease, as set forth in the document executed by:

As Lessor: K-Mart Corporation, a Michigan corporation
As Lessee: Kohls Department Stores, Inc., A Delaware coporation
Recorded: January 5, 2004, Instrument No. 2004-000829, of Official Records

12. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Town of Colma
Purpose: Sanitary sewer lines
Recorded: October 3, 1984, Instrument No. 84107906, of Official Records
Affects: A 10 foot strip of land across the central portion of said property

13. Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Town of Colma
Purpose: Public sidewalk
Recorded: February 23, 1989, Instrument No. 89023314, of Official Records
Affects: Portion of premises along Northwesterly line

14. A deed of trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount: \$5,000,000.00
Dated: March 24, 1999
Trustor: Bernard Tse and Cynthia Tse, as co-trustees of the Bernard and Cynthia Tse Trust established by Declaration of Trust made on June 26, 1981, as restated by Restated Trust Agreement made July 25, 1990
Trustee: Commonwealth Land Title Insurance Company, a California corporation
Beneficiary: Woodmen of the World Life Insurance Society and/or Omaha Woodmen Life Insurance Society, a Nebraska corporation
Address: 200 Broadway
Millbrae, California 94030
Loan No.: Not Shown
Recorded: March 24, 1999, Instrument No. 99-051553, of Official Records

An agreement to modify the terms and provisions of said deed of trust as therein provided

Executed by: Woodmen of the World Life Insurance Society and/or Omaha Woodmen Life Insurance Society, a Nebraska corporation
Recorded: July 13, 2005, Instrument No. 2005-117243, of Official Records

An agreement to modify the terms and provisions of said deed of trust as therein provided

Executed by: Tse Serramonte L.P., California limited partnership and Woodmen of The World Life Insurance Society and/or Omaha Woodmen Life Insurance Society, a Nebraska corporation
Recording Date: March 25, 2015
Recording No.: 2015-027954 of Official Records

15. An assignment of all the moneys due, or to become due, as rental, as additional security for the obligations secured by deed of trust shown as item no. 13.

Assigned to: Woodmen of the World Life Insurance Society and/or Omaha Woodmen Life Insurance Society, a Nebraska corporation
by Assignment
Recorded: March 24, 1999, Instrument No. 99-051554, of Official Records

16. A financing statement filed in the Office of the County Recorder, showing

Debtor: Bernard Tse and Cynthia Tse
Secured Party: Woodmen of the World Life Insurance Society, a Nebraska corporation
Date: None Shown
Recorded: March 24, 1999, Instrument No. 99-051555, of Official Records

A change to the above financing statement was filed

Date: None Shown
No.: 99-051555
Nature of Change: Amended as provided therein
Recorded: December 6, 2002, Instrument No. 2002-258096, of Official Records

A change to the above financing statement was filed

Date: None Shown
No.: 9911960010
Nature of Change: Amended as provided therein
Recorded: December 6, 2002, Instrument No. 2002-258097, of Official Records

A change to the above financing statement was filed

Date: None Shown
No.: 99-051555
Nature of Change: Continuation Statement
Recorded: March 25, 2004, Instrument No. 2004-054879, of Official Records

17. Subordination, Nondisturbance and Attornment Agreement, and the terms and conditions thereof:

Lender: Woodmen of The World Life Insurance Society and/or Omaha Woodmen Life Insurance Society, a Nebraska corporation
 Tenant: Kohl's Department Stores, Inc., a Delaware corporation
 Landlord: Tse Serramonte L.P., California limited partnership
 Recording Date: March 25, 2015
 Recording No.: 2015-027955 of Official Records

The present ownership of the leasehold created by said lease and other matters affecting the interest of the lessee are not shown herein.

18. Any rights of the parties in possession of a portion of, or all of, said land, which rights are not disclosed by the public record.

This Company will require, for review, a full and complete copy of any unrecorded agreement, contract, license and/or lease, together with all supplements, assignments and amendments thereto, before issuing any policy of title insurance without excepting this item from coverage. The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.

19. Matters which may be disclosed by an inspection and/or by a correct ALTA/ACSM Land Title Survey of said land that is satisfactory to this Company, and/or by inquiry of the parties in possession thereof.

20. The Company will require the following documents for review prior to the issuance of any title insurance predicated upon a conveyance or encumbrance from the limited partnership named below:

Name: Tse Serramonte L.P., a limited partnership

- a) Satisfactory evidence that the partnership was validly formed, is in good standing and that there have been no amendments to the partnership agreement

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

END OF ITEMS

Note 1. The Company is not aware of any matters which would cause it to decline to attach the CLTA Endorsement Form 116 indicating that there is located on said land a Commercial Building known as 1200 El Camino Real, Colma, California to an Extended Coverage Loan Policy.

Note 2. There are NO deeds affecting said land, recorded within twenty-four (24) months of the date of this report.

Note 3. The application for title insurance was placed by reference to only a street address or tax identification number.

Based on our records, we believe that the description in this report covers the parcel requested, however, if the legal description is incorrect a new report must be prepared.

If the legal description is incorrect, in order to prevent delays, the seller/buyer/borrower must provide the Company and/or the settlement agent with the correct legal description intended to be the subject of this transaction.

Note 4. If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.

Note 5. Please contact Escrow Office for Wire Instructions.

Note 6. Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third-party service. If the above requirements cannot be met, please call the company at the number provided in this report.

END OF NOTES

ATTACHMENT ONE (Revised 06-03-11)

CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990 EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
(b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:

(a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;

(b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;

(c) resulting in no loss or damage to the insured claimant;

(d) attaching or created subsequent to Date of Policy; or
(e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.

4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

SCHEDULE B, PART I EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.

4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.

5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

6. Any lien or right to a lien for services, labor or material not shown by the public records.

**ATTACHMENT ONE
(CONTINUED)**

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (02-03-10)
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE
EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:
 - a. building;
 - b. zoning;
 - c. land use;
 - d. improvements on the Land;
 - e. land division; and
 - f. environmental protection.
 This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
5. Failure to pay value for Your Title.
6. Lack of a right:
 - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.
 This Exclusion does not limit the coverage described in Covered Risk 11 or 21.
7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	<u>Your Deductible Amount</u>	<u>Our Maximum Dollar Limit of Liability</u>
Covered Risk 16:	<u>1.00 % of Policy Amount Shown in Schedule A or \$ 2,500.00</u> (whichever is less)	\$ <u>10,000.00</u>
Covered Risk 18:	<u>1.00 % of Policy Amount Shown in Schedule A or \$ 5,000.00</u> (whichever is less)	\$ <u>25,000.00</u>
Covered Risk 19:	<u>1.00 % of Policy Amount Shown in Schedule A or \$ 5,000.00</u> (whichever is less)	\$ <u>25,000.00</u>
Covered Risk 21:	<u>1.00 % of Policy Amount Shown in Schedule A or \$ 2,500.00</u> (whichever is less)	\$ <u>5,000.00</u>

**ATTACHMENT ONE
(CONTINUED)**

**AMERICAN LAND TITLE ASSOCIATION
RESIDENTIAL TITLE INSURANCE POLICY (6-1-87)
EXCLUSIONS**

In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:

- land use
- improvements on the land
- land division
- environmental protection

This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date.

This exclusion does not limit the zoning coverage described in Items 12 and 13 of Covered Title Risks.

2. The right to take the land by condemning it, unless:

- a notice of exercising the right appears in the public records
- on the Policy Date
- the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking

3. Title Risks:

- that are created, allowed, or agreed to by you
- that are known to you, but not to us, on the Policy Date -- unless they appeared in the public records
- that result in no loss to you
- that first affect your title after the Policy Date -- this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks

4. Failure to pay value for your title.

5. Lack of a right:

- to any land outside the area specifically described and referred to in Item 3 of Schedule A
- OR

• in streets, alleys, or waterways that touch your land
This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

**ATTACHMENT ONE
(CONTINUED)**

**2006 AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;

- (c) resulting in no loss or damage to the Insured Claimant;
- (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13 or 14); or
- (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage.

In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records;
- (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.

**ATTACHMENT ONE
(CONTINUED)**

**2006 AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (06-17-06)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage.

In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.

**ATTACHMENT ONE
(CONTINUED)**

**ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (07-26-10)
EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.
9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.

Notice

You may be entitled to receive a \$20.00 discount on escrow services if you purchased, sold or refinanced residential property in California between May 19, 1995 and November 1, 2002. If you had more than one qualifying transaction, you may be entitled to multiple discounts.

If your previous transaction involved the same property that is the subject of your current transaction, you do not have to do anything; the Company will provide the discount, provided you are paying for escrow or title services in this transaction.

If your previous transaction involved property different from the property that is subject of your current transaction, you must - prior to the close of the current transaction - inform the Company of the earlier transaction, provide the address of the property involved in the previous transaction, and the date or approximate date that the escrow closed to be eligible for the discount.

Unless you inform the Company of the prior transaction on property that is not the subject of this transaction, the Company has no obligation to conduct an investigation to determine if you qualify for a discount. If you provide the Company information concerning a prior transaction, the Company is required to determine if you qualify for a discount which is subject to other terms and conditions.

FIDELITY NATIONAL FINANCIAL PRIVACY NOTICE

Fidelity National Financial, Inc. and its majority-owned subsidiary companies providing real estate- and loan-related services (collectively, "FNF", "our" or "we") respect and are committed to protecting your privacy. This Privacy Notice lets you know how and for what purposes your Personal Information (as defined herein) is being collected, processed and used by FNF. We pledge that we will take reasonable steps to ensure that your Personal Information will only be used in ways that are in compliance with this Privacy Notice. The provision of this Privacy Notice to you does not create any express or implied relationship, or create any express or implied duty or other obligation, between Fidelity National Financial, Inc. and you. See also **No Representations or Warranties** below.

This Privacy Notice is only in effect for any generic information and Personal Information collected and/or owned by FNF, including collection through any FNF website and any online features, services and/or programs offered by FNF (collectively, the "Website"). This Privacy Notice is not applicable to any other web pages, mobile applications, social media sites, email lists, generic information or Personal Information collected and/or owned by any entity other than FNF.

How Information is Collected

The types of personal information FNF collects may include, among other things (collectively, "Personal Information"): (1) contact information (e.g., name, address, phone number, email address); (2) demographic information (e.g., date of birth, gender marital status); (3) Internet protocol (or IP) address or device ID/UDID; (4) social security number (SSN), student ID (SIN), driver's license, passport, and other government ID numbers; (5) financial account information; and (6) information related to offenses or criminal convictions.

In the course of our business, we may collect Personal Information about you from the following sources:

- Applications or other forms we receive from you or your authorized representative;
- Information we receive from you through the Website;
- Information about your transactions with or services performed by us, our affiliates, or others; and
- From consumer or other reporting agencies and public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates or others.

Additional Ways Information is Collected Through the Website

Browser Log Files. Our servers automatically log each visitor to the Website and collect and record certain information about each visitor. This information may include IP address, browser language, browser type, operating system, domain names, browsing history (including time spent at a domain, time and date of your visit), referring/exit web pages and URLs, and number of clicks. The domain name and IP address reveal nothing personal about the user other than the IP address from which the user has accessed the Website.

Cookies. From time to time, FNF or other third parties may send a "cookie" to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive and that can be re-sent to the serving website on subsequent visits. A cookie, by itself, cannot read other data from your hard disk or read other cookie files already on your computer. A cookie, by itself, does not damage your system. We, our advertisers and other third parties may use cookies to identify and keep track of, among other things, those areas of the Website and third party websites that you have visited in the past

in order to enhance your next visit to the Website. You can choose whether or not to accept cookies by changing the settings of your Internet browser, but some functionality of the Website may be impaired or not function as intended. See the [Third Party Opt Out](#) section below.

Web Beacons. Some of our web pages and electronic communications may contain images, which may or may not be visible to you, known as Web Beacons (sometimes referred to as "clear gifs"). Web Beacons collect only limited information that includes a cookie number; time and date of a page view; and a description of the page on which the Web Beacon resides. We may also carry Web Beacons placed by third party advertisers. These Web Beacons do not carry any Personal Information and are only used to track usage of the Website and activities associated with the Website. See the [Third Party Opt Out](#) section below.

Unique Identifier. We may assign you a unique internal identifier to help keep track of your future visits. We may use this information to gather aggregate demographic information about our visitors, and we may use it to personalize the information you see on the Website and some of the electronic communications you receive from us. We keep this information for our internal use, and this information is not shared with others.

Third Party Opt Out. Although we do not presently, in the future we may allow third-party companies to serve advertisements and/or collect certain anonymous information when you visit the Website. These companies may use non-personally identifiable information (e.g., click stream information, browser type, time and date, subject of advertisements clicked or scrolled over) during your visits to the Website in order to provide advertisements about products and services likely to be of greater interest to you. These companies typically use a cookie or third party Web Beacon to collect this information, as further described above. Through these technologies, the third party may have access to and use non-personalized information about your online usage activity.

You can opt-out of certain online behavioral services through any one of the ways described below. After you opt-out, you may continue to receive advertisements, but those advertisements will no longer be as relevant to you.

- You can opt-out via the Network Advertising Initiative industry opt-out at <http://www.networkadvertising.org/>.
- You can opt-out via the Consumer Choice Page at www.aboutads.info.
- For those in the U.K., you can opt-out via the IAB UK's industry opt-out at www.youronlinechoices.com.
- You can configure your web browser (Chrome, Firefox, Internet Explorer, Safari, etc.) to delete and/or control the use of cookies.

More information can be found in the Help system of your browser. Note: If you opt-out as described above, you should not delete your cookies. If you delete your cookies, you will need to opt-out again.

Use of Personal Information

Information collected by FNF is used for three main purposes:

- To provide products and services to you or one or more third party service providers (collectively, "Third Parties") who are obtaining services on your behalf or in connection with a transaction involving you.
- To improve our products and services that we perform for you or for Third Parties.
- To communicate with you and to inform you about FNF's, FNF's affiliates and third parties' products and services.

When Information Is Disclosed By FNF

We may provide your Personal Information (excluding information we receive from consumer or other credit reporting agencies) to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures. Disclosures may include, without limitation, the following:

- To agents, brokers, representatives, or others to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure in connection with an insurance transaction;
- To third-party contractors or service providers who provide services or perform marketing services or other functions on our behalf;
- To law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoenas or court orders; and/or
- To lenders, lien holders, judgment creditors, or other parties claiming an encumbrance or an interest in title whose claim or interest must be determined, settled, paid or released prior to a title or escrow closing.

In addition to the other times when we might disclose information about you, we might also disclose information when required by law or in the good-faith belief that such disclosure is necessary to: (1) comply with a legal process or applicable laws; (2) enforce this Privacy Notice; (3) respond to claims that any materials, documents, images, graphics, logos, designs, audio, video and any other information provided by you violates the rights of third parties; or (4) protect the rights, property or personal safety of FNF, its users or the public.

We maintain reasonable safeguards to keep the Personal Information that is disclosed to us secure. We provide Personal Information and non-Personal Information to our subsidiaries, affiliated companies, and other businesses or persons for the purposes of processing such information on our behalf and promoting the services of our trusted business partners, some or all of which may store your information on servers outside of the United States. We require that these parties agree to process such information in compliance with our Privacy Notice or in a similar, industry-standard manner, and we use reasonable efforts to limit their use of such information and to use other appropriate confidentiality and security measures. The use of your information by one of our trusted business partners may be subject to that party's own Privacy Notice. We do not, however, disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent, in conformity with applicable law, unless such disclosure is otherwise permitted by law.

We also reserve the right to disclose Personal Information and/or non-Personal Information to take precautions against liability, investigate and defend against any third-party claims or allegations, assist government enforcement agencies, protect the security or integrity of the Website, and protect the rights, property, or personal safety of FNF, our users or others.

We reserve the right to transfer your Personal Information, as well as any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets. We also cannot make any representations regarding the use or transfer of your Personal Information or other information that we may have in the event of our bankruptcy, reorganization, insolvency, receivership or an assignment for the benefit of creditors, and you expressly agree and consent to the use and/or transfer of your Personal Information or other information in connection with a sale or transfer of some or all of our assets in any of the above described proceedings. Furthermore, we cannot and will not be responsible for any breach of security by any third parties or for any actions of any third parties that receive any of the information that is disclosed to us.

Information From Children

We do not collect Personal Information from any person that we know to be under the age of thirteen (13). Specifically, the Website is not intended or designed to attract children under the age of thirteen (13). You affirm that you are either more than 18 years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this Privacy Notice, and to abide by and comply with this Privacy Notice. In any case, you affirm that you are over the age of 13, as **THE WEBSITE IS NOT INTENDED FOR CHILDREN UNDER 13 THAT ARE UNACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN.**

Parents should be aware that FNF's Privacy Notice will govern our use of Personal Information, but also that information that is voluntarily given by children – or others – in email exchanges, bulletin boards or the like may be used by other parties to generate unsolicited communications. FNF encourages all parents to instruct their children in the safe and responsible use of their Personal Information while using the Internet.

Privacy Outside the Website

The Website may contain various links to other websites, including links to various third party service providers. FNF is not and cannot be responsible for the privacy practices or the content of any of those other websites. Other than under agreements with certain reputable organizations and companies, and except for third party service providers whose services either we use or you voluntarily elect to utilize, we do not share any of the Personal Information that you provide to us with any of the websites to which the Website links, although we may share aggregate, non-Personal Information with those other third parties. Please check with those websites in order to determine their privacy policies and your rights under them.

European Union Users

If you are a citizen of the European Union, please note that we may transfer your Personal Information outside the European Union for use for any of the purposes described in this Privacy Notice. By providing FNF with your Personal Information, you consent to both our collection and such transfer of your Personal Information in accordance with this Privacy Notice.

Choices With Your Personal Information

Whether you submit Personal Information to FNF is entirely up to you. You may decide not to submit Personal Information, in which case FNF may not be able to provide certain services or products to you.

You may choose to prevent FNF from disclosing or using your Personal Information under certain circumstances ("opt out"). You may opt out of any disclosure or use of your Personal Information for purposes that are incompatible with the purpose(s) for which it was originally collected or for which you subsequently gave authorization by notifying us by one of the methods at the end of this Privacy Notice. Furthermore, even where your Personal Information is to be disclosed and used in accordance with the stated purposes in this Privacy Notice, you may elect to opt out of such disclosure to and use by a third party that is not acting as an agent of FNF. As described above, there are some uses from which you cannot opt-out.

Please note that opting out of the disclosure and use of your Personal Information as a prospective employee may prevent you from being hired as an employee by FNF to the extent that provision of your Personal Information is required to apply for an open position.

FNF collects Personal Information from you, such information will not be disclosed or used by FNF for purposes that are incompatible with the purpose(s) for which it was originally collected or for which you subsequently gave authorization unless you affirmatively consent to such disclosure and use.

You may opt out of online behavioral advertising by following the instructions set forth above under the above section "Additional Ways That Information Is Collected Through the Website," subsection "Third Party Opt Out."

Access and Correction

To access your Personal Information in the possession of FNF and correct inaccuracies of that information in our records, please contact us in the manner specified at the end of this Privacy Notice. We ask individuals to identify themselves and the information requested to be accessed and amended before processing such requests, and we may decline to process requests in limited circumstances as permitted by applicable privacy legislation.

Your California Privacy Rights

Under California's "Shine the Light" law, California residents who provide certain personally identifiable information in connection with obtaining products or services for personal, family or household use are entitled to request and obtain from us once a calendar year information about the customer information we shared, if any, with other businesses for their own direct marketing uses. If applicable, this information would include the categories of customer information and the names and addresses of those businesses with which we shared customer information for the immediately prior calendar year (e.g., requests made in 2015 will receive information regarding 2014 sharing activities).

To obtain this information on behalf of FNF, please send an email message to privacy@fnf.com with "Request for California Privacy Information" in the subject line and in the body of your message. We will provide the requested information to you at your email address in response.

Please be aware that not all information sharing is covered by the "Shine the Light" requirements and only information on covered sharing will be included in our response.

Additionally, because we may collect your Personal Information from time to time, California's Online Privacy Protection Act requires us to disclose how we respond to "do not track" requests and other similar mechanisms. Currently, our policy is that we do not recognize "do not track" requests from Internet browsers and similar devices.

FNF Compliance with California Online Privacy Protection Act

For some websites which FNF or one of its companies owns, such as the Customer CareNet ("CCN"), FNF is acting as a third party service provider to a mortgage loan servicer. In those instances, we may collect certain information on behalf of that mortgage loan servicer for fulfilling a service to that mortgage loan servicer. For example, you may access CCN to complete a transaction with your mortgage loan servicer. During this transaction, the information which we may collect on behalf of the mortgage loan servicer is as follows:

- First and Last Name
- Property Address
- User Name
- Password
- Loan Number
- Social Security Number - masked upon entry
- Email Address
- Three Security Questions and Answers
- IP Address

The information you submit is then transferred to your mortgage loan servicer by way of CCN.

The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through this website. For example, if you believe that your payment or user information is incorrect, you must contact your mortgage loan servicer.

CCN does not share consumer information with third parties, other than those with which the mortgage loan servicer has contracted to interface with the CCN application.

All sections of the FNF Privacy Notice apply to your interaction with CCN, except for the sections titled Choices with Your Personal Information and Access and Correction. If you have questions regarding the choices you have with regard to your personal information or how to access or correct your personal information, you should contact your mortgage loan servicer.

No Representations or Warranties

By providing this Privacy Notice, Fidelity National Financial, Inc. does not make any representations or warranties whatsoever concerning any products or services provided to you by its majority-owned subsidiaries. In addition, you also expressly agree that your use of the Website is at your own risk. Any services provided to you by Fidelity National Financial, Inc. and/or the Website are provided "as is" and "as available" for your use, without representations or warranties of any kind, either express or implied, unless such warranties are legally incapable of exclusion. Fidelity National Financial, Inc. makes no representations or warranties that any services provided to you by it or the Website, or any services offered in connection with the Website are or will remain uninterrupted or error-free, that defects will be corrected, or that the web pages on or accessed through the Website, or the servers used in connection with the Website, are or will remain free from any viruses, worms, time bombs, drop dead devices, Trojan horses or other harmful components. Any liability of Fidelity National Financial, Inc. and your exclusive remedy with respect to the use of any product or service provided by Fidelity National Financial, Inc. including on or accessed through the Website, will be the re-performance of such service found to be inadequate.

Your Consent To This Privacy Notice

By submitting Personal Information to FNF, you consent to the collection and use of information by us as specified above or as we otherwise see fit, in compliance with this Privacy Notice, unless you inform us otherwise by means of the procedure identified below. If we decide to change this Privacy Notice, we will make an effort to post those changes on the Website. Each time we collect information from you following any amendment of this Privacy Notice will signify your assent to and acceptance of its revised terms for all previously collected information and information collected from you in the future. We may use comments, information or feedback that you may submit in any manner that we may choose without notice or compensation to you.

If you have additional questions or comments, please let us know by sending your comments or requests to:

Fidelity National Financial, Inc.
601 Riverside Avenue
Jacksonville, Florida 32204
Attn: Chief Privacy Officer
(888) 934-3354
privacy@fnf.com

Copyright © 2015. Fidelity National Financial, Inc. All Rights Reserved.

EFFECTIVE AS OF: MAY 1, 2015

Notice of Available Discounts

Pursuant to Section 2355.3 in Title 10 of the California Code of Regulations Fidelity National Financial, Inc. and its subsidiaries ("FNF") must deliver a notice of each discount available under our current rate filing along with the delivery of escrow instructions, a preliminary report or commitment. Please be aware that the provision of this notice does not constitute a waiver of the consumer's right to be charged the filed rate. As such, your transaction may not qualify for the below discounts.

You are encouraged to discuss the applicability of one or more of the below discounts with a Company representative. These discounts are generally described below; consult the rate manual for a full description of the terms, conditions and requirements for such discount. These discounts only apply to transactions involving services rendered by the FNF Family of Companies. This notice only applies to transactions involving property improved with a one-to-four family residential dwelling.

FNF Underwritten Title Company

CTC – Chicago Title Company

FNF Underwriter

CTIC – Chicago Title Insurance Company

Available Discounts

CREDIT FOR PRELIMINARY REPORTS AND/OR COMMITMENTS ON SUBSEQUENT POLICIES (CTIC)

Where no major change in the title has occurred since the issuance of the original report or commitment, the order may be reopened within 12 or 36 months and all or a portion of the charge previously paid for the report or commitment may be credited on a subsequent policy charge.

DISASTER LOANS (CTIC)

The charge for a Lender's Policy (Standard or Extended coverage) covering the financing or refinancing by an owner of record, within 24 months of the date of a declaration of a disaster area by the government of the United States or the State of California on any land located in said area, which was partially or totally destroyed in the disaster, will be 50% of the appropriate title insurance rate.

CHURCHES OR CHARITABLE NON-PROFIT ORGANIZATIONS (CTIC)

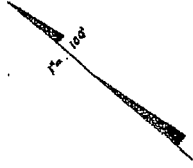
On properties used as a church or for charitable purposes within the scope of the normal activities of such entities, provided said charge is normally the church's obligation the charge for an owner's policy shall be 50% or 70% of the appropriate title insurance rate, depending on the type of coverage selected. The charge for a lender's policy shall be 32% or 50% of the appropriate title insurance rate, depending on the type of coverage selected.

8-42

TAX CODE AREA

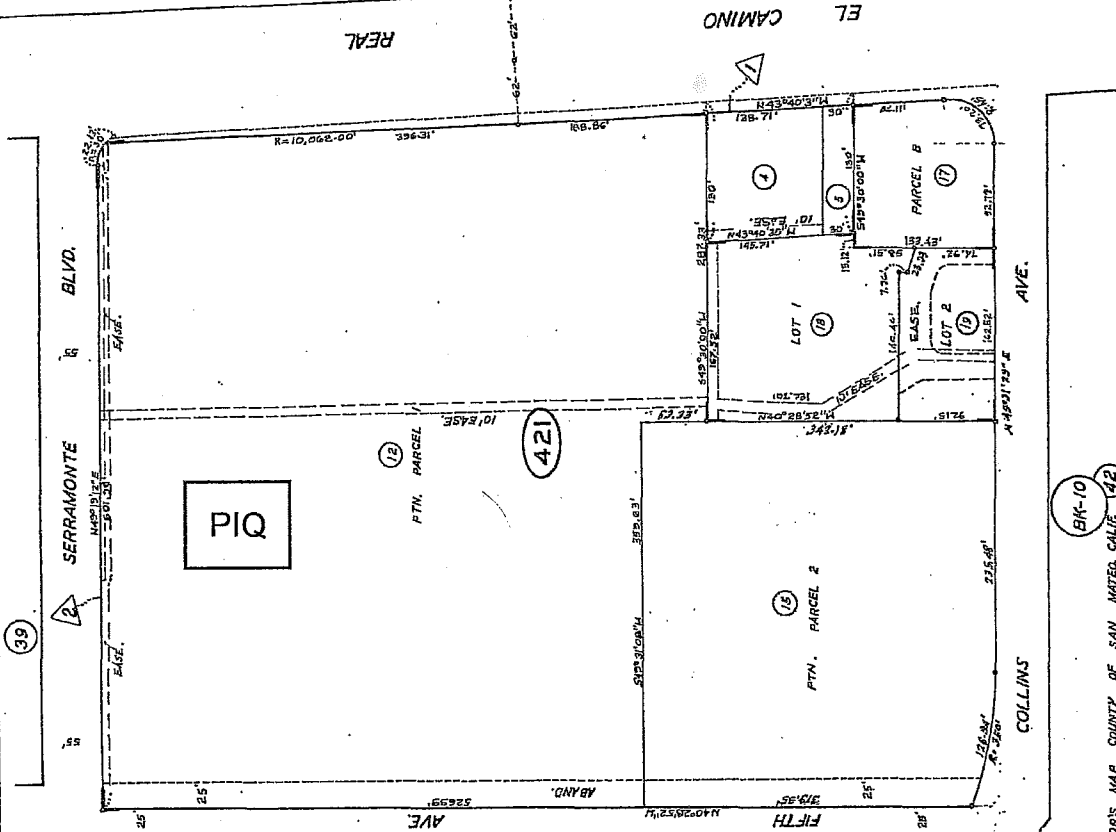
SPRR CO VALENCIA BRANCH

- PARCEL MAP VOL 67/34
- PARCEL MAP VOL 62/70
- VILLA HOMESTEAD ASS'N RSM 1/16
- PARCEL MAP VOL 50/50



BK-11 92

1-22-81



Important: This plat is not a survey. It is furnished as a convenience to locate the land in relation to adjoining streets and other lands and not to guarantee any dimensions, distances, bearings or acreage.

ASSESSOR'S MAP COUNTY OF SAN MATEO CALIF 42

L.S.



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 19211

GENERAL PLAN REFERRAL

HEARING DATE AUGUST 7, 2014

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: July 31, 2014
Case No.: Case No. 2008.1396R
Project Name: For SFPUC Regional Groundwater Storage and Recovery Project
Zoning: N/A; Various locations, San Francisco Peninsula
Block/Lot No.: N/A; Various locations; San Francisco Peninsula. See attachment for individual locations.
Project Sponsor: San Francisco Public Utilities Commission
 Greg Bartow
 525 Golden Gate Ave., 10th Floor
 San Francisco, CA 94102

Staff Contact: Paolo Ikezoe – (415) 575-9137
 Paolo.Ikezoe@sfgov.org

ADOPTING FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND WITH THE PRIORITY POLICIES OF PLANNING CODE SECTION 101.1 FOR THE PROPOSED SFPUC REGIONAL GROUNDWATER STORAGE AND RECOVERY PROJECT AND FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, Section 4.105 of the City Charter and Section 2A.53 of the Administrative Code require General Plan referrals to the Planning Commission (hereinafter "Commission") for certain matters, including determination as to whether the lease or sale of public property, the vacation, sale or change in the use of any public way, transportation route, ground, open space, building, or structure owned by the City and County, would be in conformity with the General Plan prior to consideration by the Board of Supervisors.

On April 23, 2013, the San Francisco Public Utilities Commission ("Project Sponsor" or "SFPUC") submitted an application to the Planning Department requesting a determination of consistency with the General Plan for the proposed acquisition of various property and easements in conjunction with the implementation of the SFPUC's Regional Groundwater Storage and Recovery Project ("GSR Project"), a part of the Water System Improvement Program ("WSIP").

PROJECT DESCRIPTION

The SFPUC is proposing the GSR Project as part of the WSIP, which the SFPUC approved in 2008 to provide a long-term plan for management of its regional water supply system. The primary goal of the Project is to provide additional dry-year water supply. The specific objectives of the Project are:

- Conjunctively manage the South Westside Groundwater Basin through the coordinated use of SFPUC surface water and groundwater pumped by its Partner Agencies.
- Provide supplemental SFPUC surface water to the Partner Agencies in normal and wet years, with a corresponding reduction of groundwater pumping by these agencies, which then allows for in-lieu recharge of the South Westside Groundwater Basin.
- Increase the dry-year and emergency pumping capacity of the South Westside Groundwater Basin by an average annual 7.2 million gallons per day (“mgd”).
- Provide a new dry-year groundwater supply for the SFPUC’s customers and increase water supply reliability during the 8.5-year design drought cycle.

The Project is a groundwater storage and recovery project located in northern San Mateo County that the SFPUC proposes to operate in conjunction with Daly City, San Bruno and CalWater (referred to as the “Partner Agencies”). The SFPUC supplies surface water to the Partner Agencies from its Regional Water System. The Partner Agencies currently supply potable water to their retail customers through a combination of groundwater from the southern portion of the Westside Groundwater Basin (referred to as the “South Westside Groundwater Basin”) and purchased SFPUC surface water. Under the Project, SFPUC would provide supplemental SFPUC surface water to the Partner Agencies during normal and wet years and in turn the Partner Agencies would reduce their groundwater pumping for the purpose of allowing the amount of groundwater in the South Westside Groundwater Basin to recharge. Then, during dry years, the Partner Agencies and the SFPUC would pump the increased stored groundwater using 16 new well facilities. The dry-year groundwater supply would be blended with water from the SFPUC’s regional water system and would as a result increase the available water supply to all regional water system customers during dry years.

The project consists of operation of up to 16 new groundwater well facilities within the South Westside Groundwater Basin to withdraw up to 7.2 mgd of stored groundwater during dry years and emergencies. Each groundwater well facility site would contain a well pump station, underground distribution piping, and above or underground utility connections. Most well facilities would have disinfection units as required.

The SFPUC proposes to install the 16 new groundwater wells along the SFPUC Regional Water System, at various locations throughout the San Francisco Peninsula in San Mateo County. The sites would have permanent wells installed and would require temporary construction easements and staging areas, temporary and permanent access roads, permanent pipeline easements and permanent utility easements.

The GSR Project is designed to further the use of the South Westside Groundwater Basin as an underground storage reservoir by storing water in the basin during wet periods for subsequent recapture during the dry period. This new dry-year water supply would be made available to the SFPUC’s regional water system to benefit all of the SFPUC wholesale and retail water customers.

In addition, the Project is part of the SFPUC’s WSIP adopted by the SFPUC on October 30, 2008. The WSIP consists of over 70 local and regional facility improvement projects that would increase the ability of the SFPUC’s water supply system to withstand major seismic events and prolonged droughts and to

meet estimated water-purchase requests in the service area. With the exception of the water supply goal, the overall WSIP goals and objectives are based on a planning horizon through 2030. The water supply goal to meet delivery needs in the SFPUC service area is based on a planning horizon through 2018. The overall goals of the WSIP for the regional water system are to:

- Maintain high-quality water.
- Reduce vulnerability to earthquakes.
- Increase water delivery reliability.
- Meet customer water supply needs.
- Enhance sustainability.
- Achieve a cost-effective, fully operational system.

The Project would help meet WSIP goals by increasing dry year water supply and helping to meet customer water supply needs. In addition, the Project would provide potable groundwater for emergency supply in the event that an earthquake or other major catastrophe interrupts the delivery of water from the regional water system.

ENVIRONMENTAL REVIEW

On April 10, 2013, the Department published the Draft Environmental Impact Report ("DEIR") and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment for a 45-day period (the public review period was extended for two weeks, concluding on June 11, 2013, resulting in a 62-day public review period), and of the date and time of the Planning Commission public hearing on the DEIR; this notice was mailed to the Department's list of persons requesting such notice and other interested parties, posted near the Project site, and made available at the main public library in San Francisco and at public libraries in San Mateo County. Additional notices of availability were distributed and published on May 29, 2013, to announce the extended public review period.

On April 10, 2013, copies of the DEIR were mailed or otherwise delivered to a list of persons requesting it, to those noted on the distribution list in the DEIR, to adjacent property owners, and to government agencies, the latter both directly and through the State Clearinghouse. The DEIR was posted on the Department's website. A Notice of Completion was filed with the State Secretary of Resources via the State Clearinghouse on April 10, 2013.

The Planning Commission held a duly-advertised public hearing on the DEIR to accept written or oral comments on May 16, 2013. The Planning Department also held a local public hearing in the project vicinity in San Mateo County on May 14, 2013. The public hearing transcripts are in the Project record. The extended period for acceptance of written comments ended on June 11, 2013.

The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the extended 62 day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period. The Department provided additional, updated information

and clarification on issues raised by commenters, as well as SFPUC and the Planning Department, to address Project updates since publication of the DEIR. This material was presented in a Responses to Comments document ("RTC"), published on July 9, 2014, distributed to the Commission on July 10, 2014, and all parties who commented on the DEIR, and made available to others upon request at the Department and on the Department's website.

On August 7, 2014, the Planning Commission (hereinafter "Commission") conducted a public hearing on the Final Environmental Impact Report (EIR) for the Project, consisting of the Draft Environmental Impact Report, the RTC, and any additional consultations, comments and information received during the review process. The Commission reviewed and considered the Final EIR and found the contents of said report and the procedures through which the EIR was prepared, publicized and reviewed complied with the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*) ("CEQA"), the CEQA Guidelines (14 Cal. Code Reg. section 15000 *et seq.*), and Chapter 31 of the San Francisco Administrative Code.

On August 7, 2014, the Commission certified the Final EIR by Motion No. XXXXX. Additionally, the Commission adopted approval findings, including findings rejecting alternatives, amending a mitigation measure, and making a statement of overriding considerations, and adopted a mitigation monitoring and reporting program ("MMRP") pursuant to CEQA by Motion No. XXXXX, which findings and MMRP are incorporated by this reference as though fully set forth herein.

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

The Project is consistent with the Eight Priority Policies of Planning Code Section 101.1 as described in the body of this letter and is, on balance, **in-conformity** with the following Objectives and Policies of the General Plan. Comments are provided in *italic* text.

ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 2

IMPLEMENT BROAD AND EFFECTIVE MANAGEMENT OF NATURAL RESOURCES.

POLICY 2.1

Coordinate regional and local management of natural resources.

Comment: The SFPUC is entering into the GSR project with its Partner Agencies, Daly City, San Bruno and CalWater to make efficient use of the South Westside Groundwater Basin. Under the Project, the SFPUC would provide surface water to its Partner Agencies in wet and normal years, allowing for in-lieu storage of groundwater. In dry years, the SFPUC and Partner Agencies would be able to pump increased groundwater supply. The GSR project, located outside of the City and County of San Francisco in San Mateo County, would make the dry-year water supply it creates available to the cities in which the wells would be located - Daly City, San Bruno and South San Francisco - as well as to SFPUC wholesale water customers.

OBJECTIVE 5

ASSURE A PERMANENT AND ADEQUATE SUPPLY OF FRESH WATER TO MEET THE PRESENT AND FUTURE NEEDS OF SAN FRANCISCO.

Hetch Hetchy and the Water Department should continue their excellent planning program to assure that the water supply will adequately meet foreseeable consumption demands. To this end, the City should be prepared to undertake the necessary improvements and add to the Hetch Hetchy/Water Department system in order to guarantee the permanent supply. Furthermore, San Francisco should continually renew its commitments for the sale of water to suburban areas in planning how to meet future demand.

Comment: The GSR project is a key component of the SFPUC's WSIP plan for dry year supply. The GSR project would improve the SFPUC's ability to provide an adequate, reliable supply of water in both wet and dry years, by creating the capacity to collect and store groundwater. Water collected during wet periods would be used to supplement existing sources during dry years.

POLICY 5.3

Ensure water purity.

San Francisco's drinking water must meet State and Federal water quality standards. Ensuring water quality means continuing the present water purification process and monitoring storage facilities and transmission lines for threats to the water supply.

Comment: New well facilities constructed as part of the GSR project would have disinfection units as required. The Final EIR determines that the Project would have no significant impact on water quality and would not degrade drinking water.

OBJECTIVE 6

CONSERVE AND PROTECT THE FRESH WATER RESOURCE.

The fresh water resource, like all natural resources, is finite and measurable. While San Francisco's water supply seems vast in relation to current demands, it should not be wasted. Supplementary sources should also be investigated.

Comment: The GSR project would provide new supplementary sources of fresh water, collecting and storing groundwater during wet periods for use during dry years.

PROPOSITION M FINDINGS – PLANNING CODE SECTION 101.1

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

Eight Priority Policies Findings

The subject project is found to be consistent with the Eight Priority Policies of Planning Code Section 101.1 in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The Project would have no adverse effect on neighborhood serving retail uses or opportunities for employment in or ownership of such businesses.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhood.

The Project would have no adverse effect on the City's housing stock or on neighborhood character. The existing housing and neighborhood character will be not be negatively affected

3. That the City's supply of affordable housing be preserved and enhanced.

The Project would have no adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project would not result in commuter traffic impeding MUNI's transit service, overburdening the streets or altering current neighborhood parking.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for residential employment and ownership in these sectors be enhanced.

The Project would not affect the existing economic base in this area.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project would not adversely affect achieving the greatest possible preparedness against injury and loss of life in an earthquake.

7. That landmarks and historic buildings be preserved.

The project does not involve alteration of any historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project would have no long-term adverse effect on parks and open space or their access to sunlight and vista. The Final EIR determines that short-term impacts to the recreational experience during project construction would be mitigated to a less-than-significant level with the implementation of mitigation measures.

DECISION

That based upon the Record, the submissions of the SFPUC, the Department and SFPUC staff, and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES** the General Plan Referral, finding the project, on balance, consistent with the General Plan.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on August 7, 2014.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, Sugaya and Wu.

NAYES: None

ABSENT: None

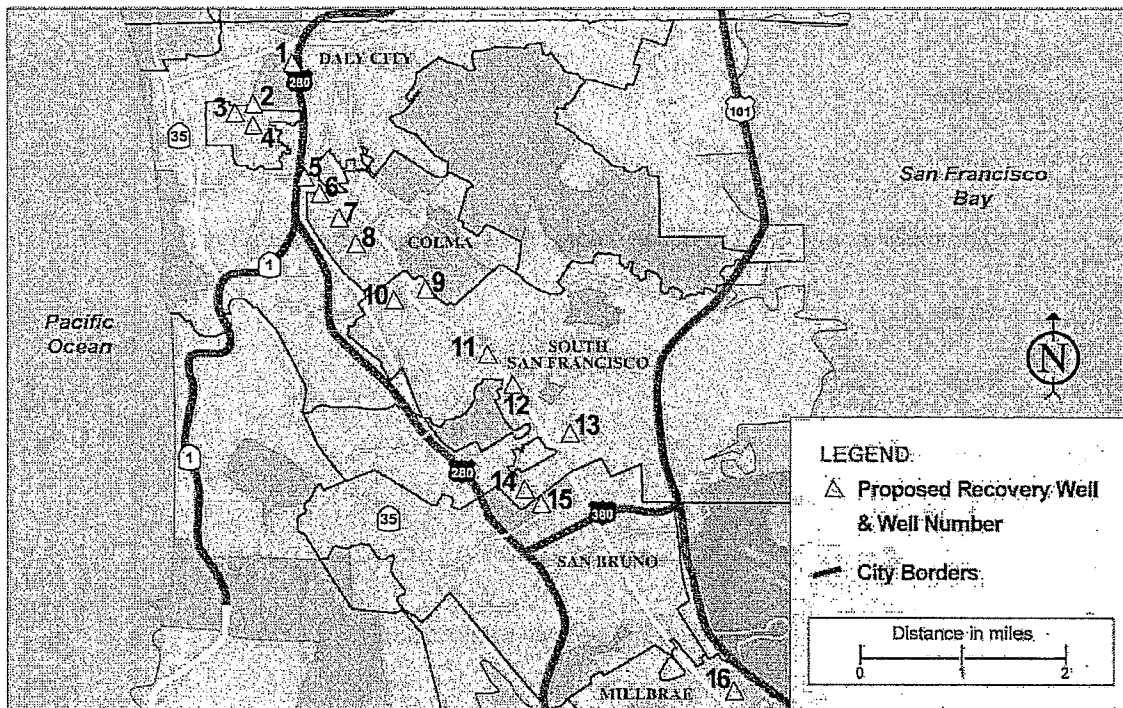
ADOPTED: August 07, 2014

Attachments: Map of proposed well sites and list of right-of-way requirements

I:\Citywide\General Plan\General Plan Referrals\2014\2008.1396R PUC Groundwater Storage and Recovery.docx
List of right-of-way requirements

In compliance with Government Code Section 7260 et seq., undertake the process for possible acquisition, for an estimated combined purchase price not to exceed \$1,000,000, of interests (temporary or permanent) in real property located in San Mateo County, as follows:

- (1) Assessor's Parcel # 002-410-050 in Daly City, owned by Lake Merced Golf and Country Club
- (2) Assessor's Parcel's # 002-072-240, -250 and 002-201-650 in Daly City, owned by John Daly Boulevard Associates/West Lake Associates
- (3) Assessor's Parcel #'s 006-111-540 and 006-111-460 in Daly City, owned by Jefferson Elementary School District
- (4) Assessor's Parcel # 008-421-120 in Colma, owned by TSE Serramonte L.P. and leased by Kohl's Department Stores
- (5) Assessor's Parcel's (unknown) for property owned by BART/SAMTRANS in South San Francisco
- (6) Assessor's Parcel # 010-212-100 in South San Francisco, owned by Costco Wholesale Corporation
- (7) Assessor's Parcel # 093-331-080 in South San Francisco, owned by the City of South San Francisco
- (8) Assessor's Parcel # 010-292-210 in South San Francisco, owned by Kaiser Foundation Hospitals
- (9) Assessor's Parcel # 093-220-010 in Millbrae, owned by the SFPUC and leased by OSH/Lowes Corporation
- (10) Assessor's Parcel # 014-320-010 in San Bruno, owned by the U.S. Department of Veterans Affairs





July 22, 2016.

TSE Serramonte, LP
 Easement Acquisition

RECEIVED
 BOARD OF SUPERVISORS
 SAN FRANCISCO
 2016 AUG - 1 AM 11:43

Honorable Board of Supervisors
 City & County of San Francisco
 City Hall, Room 244
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102-4689

Dear Board Members:

Enclosed for your consideration is a Resolution authorizing an agreement for acquisition of real estate between the City and County of San Francisco on behalf of the San Francisco Public Utilities Commission (SFPUC) and TSE Serramonte LP, a California limited partnership, to acquire one temporary construction easement, and one permanent subsurface easement for Twenty-Three Thousand One Hundred-Seventy dollars (\$23,170.00). The acquisition is necessary to facilitate the construction and operation of SFPUC's Regional Groundwater Storage and Recovery Project. Through this proposed legislation, we are asking that the Board of Supervisors:

1. Approve and authorize the acquisition of the easements.
2. Adopt and incorporate findings that the conveyance of the easements is consistent with the City's General Plan and the eight priority policies of City Planning Code Section 101.1.
3. Approve the Sale Agreement and authorize the Director of Property and/or the SFPUC General Manager to execute documents, make certain modifications, and take certain actions in furtherance of the resolution.

Should you have any questions or need additional information, do not hesitate to call Brian Morelli at 415-554-1545 of the SFPUC or Marta Bayol of the Real Estate Division.

Respectfully,

Harlan Kelly Jr.
 PUC General Manager

- Edwin M. Lee
 Mayor
- Francesca Vietor
 President
- Anson Moran
 Vice President
- Ann Moller Caen
 Commissioner
- Vince Courtney
 Commissioner
- Ike Kwon
 Commissioner
- Harlan L. Kelly, Jr.
 General Manager



