

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 16-0228

WHEREAS, In 1948, pursuant to BOS Resolution No. 4744 (Series of 1939) and specifically for the purposes of a sludge treatment plant, the City and County of San Francisco ("City") purchased the Asphalt Plant Site (Parcels 5281/001 and 5288/003 (now combined to form Parcel 5281/001)), commonly known as 1801 Jerrold Avenue, pursuant to an agreement approved by BOS Ordinance No. 4849 (Series of 1939); and

WHEREAS, In 1955, Public Works constructed municipal asphalt plant on the Asphalt Plant Site and operated it until Fiscal Year 2010. The Asphalt Plant Site is located directly across Quint Street from the Southeast Water Pollution Control Plant ("SEP"); and

WHEREAS, Effective August 1, 1996, jurisdiction over City's wastewater system, including sewer facilities, assets, and properties, was transferred to the SFPUC; and

WHEREAS, Pursuant to City Charter Section 8B.121, the SFPUC has exclusive jurisdiction over San Francisco Block 4343/Lot 031, Block 4343/Lot 018, and Block 4346/Lots 001 and 001A ("SFPUC Parcels"), which are bounded by Napoleon, Evans, and Cesar Chavez Streets; and

WHEREAS, The SFPUC owns, operates and maintains extensive subsurface wastewater facilities ("Wastewater Facilities") placed beneath the SFPUC Parcels, including a portion of the Napoleon Site (the "Wastewater Reserved Area"). The SFPUC uses a portion of the SFPUC Parcels for parking and to maintain the security fencing, gates, gate intercom system, gate operators, and seven furnished trailers with ADA ramps ("Trailers") for office use; and

WHEREAS, Public Works maintains a facility for its operational vehicles, equipment, and storage on Cesar Chavez Street near Evans Street ("DPW Yard"). The DPW Yard is located on a portion of, and adjacent to, the SFPUC Parcels; and

WHEREAS, On February 22, 2000, by Resolution No. 00-0064, the SFPUC authorized execution of a revocable, personal, non-exclusive, and non-possessory permit ("Permit") between the SFPUC, as permittor, and Public Works, as permittee, that provides for Public Works' right to enter and use a portion of Block 4343/Lot 018, and Block 4346/Lots 001 and 001A (together designated as the "Existing Permit Area"). The Existing Permit Area is located on the surface over a portion of the Wastewater Facilities. Public Works uses the Existing Permit Area for equipment and materials storage and parking; and

WHEREAS, Public Works desires to acquire jurisdiction over and occupy the Napoleon Site) to expand its DPW Yard area and operations. Because a portion of the Napoleon Site (the "Wastewater Facilities Area") is located within the Existing Permit Area and contains Wastewater Facilities and the Napoleon Site includes the Wastewater Reserved Area, Public Works proposed acquisition of jurisdiction over, and occupation of, the Napoleon Site will be

subject to restrictions in the MOU that will protect, and assure SFPUC access to, the existing and future Wastewater Facilities placed under the Napoleon Site and under the Wastewater Facilities Area. In addition, Public Works desires to obtain ownership of the Trailers located on another portion of the Napoleon Site. The Trailers are operational but have limited residual monetary value to the SFPUC; and

WHEREAS The SEP facilities are old, and require substantial maintenance, repair, and replacement. The SFPUC is undertaking scheduled repair and replacement projects at the SEP and at various locations in San Francisco in the near term, and has immediate need for additional space for storage of equipment and vehicles and temporary relocation of existing uses in the vicinity of the SEP; and

WHEREAS, In the longer term, the SFPUC anticipates a continuing need for more space for capital improvement projects related to existing facilities and upgrades to the wastewater system. Because of the existing intensive competition for available industrial land in San Francisco, particularly in proximity to the SFPUC's existing utility plants and facilities, the SFPUC now seeks to secure land necessary to support its current and future obligations to provide essential utility services; and

WHEREAS, The SFPUC desires to acquire jurisdiction over and occupy and utilize the Asphalt Plant Site in exchange for consenting to the jurisdictional transfer of the Napoleon Site (subject to appropriate restrictions regarding the use of, and access to, the portions of Wastewater Reserved Area contained within the Napoleon Site) and ownership of Trailers to Public Works; and

WHEREAS, Public Works desires to acquire jurisdiction over the Napoleon Site and ownership of the Trailers, in exchange for consenting to the jurisdictional transfer of the Asphalt Plant Site to the SFPUC; and

WHEREAS, The SFPUC General Manager and staff recommend that the Commission declare the Napoleon Site surplus to the SFPUC's utility needs and transfer jurisdiction over the Napoleon Site to Public Works; and

WHEREAS, The recommendation of SFPUC General Manager and staff is subject to the requirement under applicable law that the SFPUC obtain fair market value for the transfer of this real property asset of the SFPUC Wastewater Enterprise; and

WHEREAS, The SFPUC and Public Works ordered property appraisals through the City's Real Estate Division. CBRE issued an appraisal by a MAI appraiser stating that the fair market value of the Napoleon Site as of August 31, 2016 was **\$1,450,000**. CBRE issued an appraisal by a MAI appraiser stating that the fair market value of the Asphalt Plant Site as of August 31, 2016 was **\$1,440,000**. These appraisals demonstrate that the fair market value of the two properties proposed for exchange is reasonably equivalent; and

WHEREAS, SFPUC staff, together with Public Works staff, are negotiating the terms of a Memorandum of Understanding (MOU) that will provide the terms of the proposed jurisdictional transfer; and

WHEREAS, The MOU shall provide that Public Works shall provide consideration to the SFPUC that is reasonably equivalent to the appraised fair market value of the Napoleon Site and the value of the Trailers and further provides that Public Works shall take possession of the Napoleon Site upon full approval of the MOU by the Board of Supervisors and the Mayor; and

WHEREAS, The Public Works Director is authorized to negotiate and execute the MOU, to provide fair market value for Napoleon Site, and to seek the jurisdictional transfer of that property; and

WHEREAS, The MOU will provide that the SFPUC and Public Works will seek approval by the Board of Supervisors and the Mayor of the jurisdictional transfer of Napoleon Site and the Trailers to Public Works by the SFPUC in exchange for the jurisdictional transfer to the SFPUC by Public Works of the Asphalt Plant Site, with each of the SFPUC and Public Works to receive property and assets reasonably equivalent to the fair market value of the properties so transferred as required by applicable law; and

WHEREAS, On June 2, 2016, the Planning Department issued a categorical exemption under CEQA Guidelines Section 15304 (Minor Alterations of Land), Class 4 and Section 15305, (Minor Alterations in Land Use Limitations) for this action; now, therefore be it

RESOLVED, Pursuant to Charter Section 8.B121 (e), and based upon the recommendation of the SFPUC General Manager and staff, the Commission declares that, subject to the MOU containing provisions that provide for the SFPUC's continued rights to access, maintain, operate, repair and replace the Wastewater Facilities contained within and under the Napoleon Site, the Napoleon Site is surplus to the needs of any utility under SFPUC jurisdiction, and, be it

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager to (a) negotiate and execute an MOU by and between SFPUC and Public Works to provide for (i) the jurisdictional transfer of the Napoleon Site and the ownership of the Trailers to Public Works in exchange for jurisdictional transfer to the SFPUC by Public Works of the Asphalt Plant Site, based on appraisals that determine that the two properties to be so exchanged have reasonably equivalent fair market values, (ii) appropriate provisions that will allow the SFPUC to protect, and assure its access to, the existing and future Wastewater Facilities placed under the Napoleon Site and under the Wastewater Facilities Area. and (b) to undertake the actions contemplated therein, including seeking the approval of the Mayor and Board of Supervisors for the jurisdictional transfers proposed in the MOU; and, be it

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

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

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of October 25, 2016.



Secretary, Public Utilities Commission