

File No. 170422

Committee Item No. 1

Board Item No. 16

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date June 15, 2017

Board of Supervisors Meeting

Date June 27, 2017

Cmte Board

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Completed by: Linda Wong Date June 8, 2017

Completed by: Linda Wong Date June 21, 2017

1 [Real Property Acquisition - 145-165-11th Street, 973 Minna Street, and 964 Natoma Street -
2 Recreation and Park Department - \$9,725,000]

3 **Resolution approving and authorizing an agreement for the City's acquisition of five**
4 **parcels of improved real estate, consisting of approximately 19,500 square feet in land**
5 **area, including the assumption of certain existing leases, from Ares Commercial**
6 **Properties, Inc., for \$9,725,000; placing the property under the jurisdiction of the**
7 **Recreation and Park Department, and authorizing the use of revenues from the**
8 **property for property-related costs and future park planning; adopting findings under**
9 **the California Environmental Quality Act for the acquisition, but requiring any future**
10 **park conversion project to be subject to the review and approval of Recreation and**
11 **Park Commission following environmental review; adopting findings that the**
12 **conveyance is consistent with the General Plan, and eight priority policies of Planning**
13 **Code, Section 101.1; and authorizing the Director of Property to execute documents,**
14 **make certain modifications, and take certain actions in furtherance of the purchase**
15 **agreement and this Resolution.**

16
17 WHEREAS, Ares Commercial Properties, Inc. ("Seller") is the fee owner of Assessor's
18 Parcel Block No 3510, Lot Nos. 035, 037, 039, 055 & 066, located at 145 11th Street, 147
19 11th Street, 161-165 11th Street, 973 Minna Street, and 964 Natoma Street in the City and
20 County of San Francisco containing approximately 19,500 square feet of improved land area
21 (collectively, the "Properties"); and

22 WHEREAS, The Properties are encumbered by commercial leases, three of which (the
23 "Assumed Leases") expire on or before September 30, 2021; and

1 WHEREAS, Under the Assumed Leases, the landlord has no obligation to repair or
2 maintain the premises except for the surface and structural elements of the roof, the
3 foundations and the load bearing walls; and

4 WHEREAS, The tenants under the Assumed Leases collectively pay the landlord
5 approximately \$20,395 per month in base rent, and each tenant must also pay its share of
6 common operating expenses; and

7 WHEREAS, Seller and City have negotiated a purchase and sale agreement (the
8 "Purchase Agreement"), a copy of which is on file with the Clerk of the Board in File No.
9 170422, for sale of the Properties to the City for Nine Million Seven Hundred Twenty-Five
10 Thousand Dollars (\$9,725,000) subject to the terms and conditions stated therein; and

11 WHEREAS, An independent appraisal confirmed that the purchase price is equal to or
12 less than the fair market value of the Properties; and

13 WHEREAS, Under the Purchase Agreement, the City will assume the landlord's rights
14 and obligations under the Assumed Leases at closing, and the San Francisco Recreation and
15 Park Department ("SFRPD") intends to allow the existing tenants under the Assumed Leases
16 to remain on the Properties in accordance with their Assumed Lease terms through existing
17 expiration dates, and to use the rents received to pay all operating or other expenses of
18 SFRPD related to the Properties; and

19 WHEREAS, The City wishes to acquire the Properties for potential future development
20 of a neighborhood park by SFRPD after the expiration of the existing terms of the Assumed
21 Leases; and

22 WHEREAS, This acquisition will further SFRPD's mission, as articulated in the SFRPD
23 Strategic Plan Objective 1.1 ("Develop more open space to address population growth in high
24 needs areas and emerging neighborhoods"), by providing an opportunity to create a future
25 park in a neighborhood that is in need of additional parks and open spaces; and

1 WHEREAS, This acquisition falls within one of the areas identified by the District 6
2 Open Space Task Force in 2013 as desirable for new open space based on the Recreation
3 and Open Space Element High Needs Areas mapping and such factors as population density,
4 concentration of children and/or seniors, concentration of lower income households,
5 anticipated growth, and the number existing parks relative to other areas in the City; and

6 WHEREAS, On August 18, 2016, the Recreation and Park Commission unanimously
7 approved Resolution 1608-006 affirming the purchase of the Properties and urging the Board
8 of Supervisors to take steps necessary to purchase the Properties with monies from the Open
9 Space Acquisition Fund; and

10 WHEREAS, The public interest or necessity will not be inconvenienced by the
11 acquisition of the Properties in accordance with the Purchase Agreement, and such
12 acquisition will further a proper public recreational purpose; and

13 WHEREAS, The Planning Department, by letter dated April 4, 2017, found that the
14 acquisition of the Properties is not considered a project under the California Environmental
15 Quality Act ("CEQA", Pub. Resources Code Section 21000 et seq.) pursuant to CEQA
16 Guidelines, Section 15060, and Chapter 31 of the City's Administrative Code, and is
17 consistent with the General Plan, and the eight priority policies of Planning Code,
18 Section 101.1, which letter is on file with the Clerk of the Board in File No. 170422, and
19 incorporated herein by this reference; now, therefore, be it

20 RESOLVED, This Board affirms the Planning Department's determination under CEQA
21 and finds that the proposed acquisition of the Properties is consistent with the General Plan
22 and the eight priority policies of Planning Code, Section 101.1 for the reasons set forth in the
23 Director of Planning's letter; and, be it

24 FURTHER RESOLVED, That in accordance with the recommendation of the General
25 Manager of SFRPD and the Director of Property, the Board of Supervisors approves the

1 Purchase Agreement in substantially the form presented to the Board, and authorizes the
2 General Manager of SFRPD and the Director of Property to take all actions necessary or
3 appropriate to acquire the Properties and assume the Assumed Leases and any other leases
4 approved by City as set forth in the Purchase Agreement, and to perform the City's obligations
5 as a landlord; and, be it

6 FURTHER RESOLVED, That the Properties shall be placed under SFRPD's
7 jurisdiction, and SFRPD shall use the revenues from the Properties to fulfill the City's
8 obligations as landlord and applicable law and shall use any excess revenues, after paying all
9 costs of operation and maintenance, for planning and other costs related to the potential
10 demolition and conversion of the Properties to a public park following the departure of the
11 existing tenants, and, be it

12 FURTHER RESOLVED, That any future building demolition and conversion of the
13 Properties to a park will be subject to the review and approval of the Recreation and Park
14 Commission following any required environmental review; and, be it

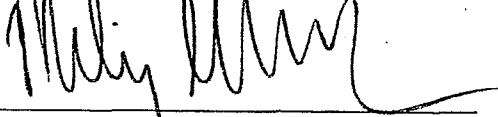
15 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
16 Property to enter into any amendments to the Purchase Agreement and to enter into ancillary
17 agreements that the Director of Property determines, in consultation with the City Attorney
18 and General Manager of SFRPD, are in the best interest of the City, do not otherwise
19 materially increase the obligations or liabilities of the City, are necessary or advisable to
20 effectuate the purposes of the Purchase Agreement and this resolution and are in compliance
21 with all applicable laws, including City's Charter; and, be it

22 FURTHER RESOLVED, That the Director of Property is hereby authorized and urged
23 to accept the deed to the Properties from the Seller upon the closing in accordance with the
24 terms and conditions of the Purchase Agreement, and to take any and all steps (including, but
25 not limited to, the execution and delivery of any and all certificates, agreements, notices,

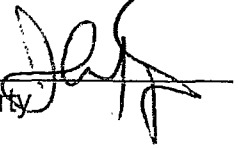
1 consents, escrow instructions, closing documents and other instruments or documents) as the
2 Director of Property deems necessary or appropriate in order to acquire the Properties
3 pursuant to the Purchase Agreement, or to otherwise effectuate the purpose and intent of this
4 Resolution, such determination to be conclusively evidenced by the execution and delivery by
5 the Director of Property of any such documents; and, be it

6 FURTHER RESOLVED, That the Director of Property shall provide the Clerk of the
7 Board of Supervisors a fully executed copy of the Purchase Agreement within thirty (30) days
8 after execution.

9
10
11
12 Recommended:

13 

14 General Manager
15 San Francisco Recreation and Parks Department

16 
17 Director of Property

<p>Item 1 File 17-0422</p>	<p>Department: Recreation and Park Department (RPD)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would approve and authorize an agreement for the City to acquire five parcels of improved real estate, consisting of approximately 19,500 square feet of land, including assumption of certain existing leases from Ares Commercial Properties Inc. for \$9,725,000; place the property under the Recreation and Park Department’s jurisdiction and authorize the use of revenues from the property for property-related costs and future park planning; adopt findings under the California Environmental Quality Act for the acquisition, but require any future park conversion project to be subject to the review and approval of the Recreation and Park Commission following environmental review; adopt findings that the conveyance is consistent with the General Plan and the eight priority policies of Planning Code, Section 101.1; and authorize the Director of Property to execute documents, make certain modifications and take certain actions in furtherance of the purchase agreement and this resolution. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • In July 2013, an Open Space Task Force issued a report that recommended priority areas for open space acquisition in District 6. Based on the Task Force recommendations, RPD worked with the Real Estate Division to identify potential sites in District 6. • Under this resolution, RPD would acquire five contiguous parcels at 11th Street between Minna and Natoma Streets from one property owner. The five parcels contain 19,570 square feet of land and include three commercial leases that expire on or before September 30, 2021. The three leases currently generate total monthly rent of \$20,395. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • An appraisal conducted by Clifford Advisory determined the property’s value at \$10,000,000. An appraisal review conducted by CBRE found the appraisal was reasonable. The purchase price of \$9,725,000 is \$275,000 less than the \$10,000,000 appraised value. • The City will also pay 100% of the closing costs, estimated at \$100,000 for total City costs of \$9,825,000. The Open Space Acquisition Fund currently has a balance of \$11,206,784, which would be reduced to \$1,381,784 with the subject \$9,825,000 costs. • RPD anticipates receiving \$815,773 of rent revenues from the existing leases over four years. This revenue together with approximately \$8.7 million of Eastern Neighborhood Impact Fees and grants will be used to develop the subject property into a public park. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

City Administrative Code Section 23.3 states that before the Board of Supervisors approves any acquisition of real property that is not a donation, the Director of Property shall determine the fair market value of such real property based on a review of available and relevant data. If the fair market value exceeds \$10,000, the Director of Property shall obtain an appraisal. If the appraisal determines the fair market value of the real estate exceeds \$200,000, the Director of Property shall obtain an appraisal review for such appraisal. Both the appraisal and appraisal review shall have effective dates not earlier than nine months before the legislation to acquire the subject property is submitted to the Board of Supervisors.

BACKGROUND

In the fall of 2012, the Recreation and Park Department (RPD) worked with the Supervisor of District 6 (Tenderloin, South of Market, Rincon Hill, South Beach and Mission Bay) to convene an Open Space Task Force to identify potential new park sites in District 6. In July 2013, this Open Space Task Force issued a report that recommended priority areas for open space acquisition in District 6. Ms. Stacy Bradley, Deputy Director of Planning in the Recreation and Park Department (RPD) advises that due to residential density, District 6 has significantly less park land per resident than most areas of the City.

Based on the Task Force recommendations, RPD worked with the Real Estate Division to engage Colliers International, a private commercial real estate firm, to identify potential new park sites in District 6. Colliers identified over 100 properties in District 6, which were narrowed to 15 potential sites for further consideration. Based on field surveys by RPD staff, additional research by Real Estate staff, and Real Estate's subsequent inquiries regarding the viability of potential acquisition of various properties, the subject five contiguous sites located at 11th Street between Natoma and Minna Streets were selected.

Recent RPD Park Purchases and Development

Over the past four years, RPD has acquired the following properties:

- **Noe Valley Town Square** in 2013 for \$3.9 million. Development of this park was funded with General Fund, Open Space Funds, a gift from the neighborhood and two grants from Land and Water Conservation Fund and Urban Greening. This park is now open with maintenance and operations funded through RPD's annual operations budget.
- **900 Innes** in 2014 for \$3.049 million. Currently in planning phase with development funds still to be identified.
- **Francisco Reservoir** is currently being purchased from the San Francisco Public Utilities Commission (SFPUC) over 12 years for \$9.9 million plus interest. Currently in planning phase with park development and maintenance funds to be gifted to City from the neighborhood.
- **Guy Place Park** acquired in 2007 for \$1,800,000 entirely from impact fees. Development of this park is being funded primarily from impact fees.

- 17th & Folsom acquired in 2011 for \$2,243,700 with impact fees. Development of this park is being funded through impact fees and grants.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would

- approve and authorize an agreement for the City to acquire five parcels of improved real estate located at 11th Street between Natoma and Minna Streets, consisting of approximately 19,570 square feet of land, including assumption of certain existing leases from Ares Commercial Properties Inc. for \$9,725,000;
- place the property under the Recreation and Park Department’s jurisdiction and authorize the use of rental revenues from the property for property-related costs and future park planning;
- adopt findings under the California Environmental Quality Act for the acquisition, but require any future park conversion project to be subject to the review and approval of the Recreation and Park Commission following environmental review;
- adopt findings that the conveyance is consistent with the General Plan and the eight priority policies of Planning Code, Section 101.1; and
- authorize the Director of Property to execute documents, make certain modifications and take certain actions in furtherance of the purchase agreement and this resolution.

The shaded area in the map below shows the location of the five contiguous parcels at 11th Street between Minna and Natoma Streets to be acquired from a single property owner¹.

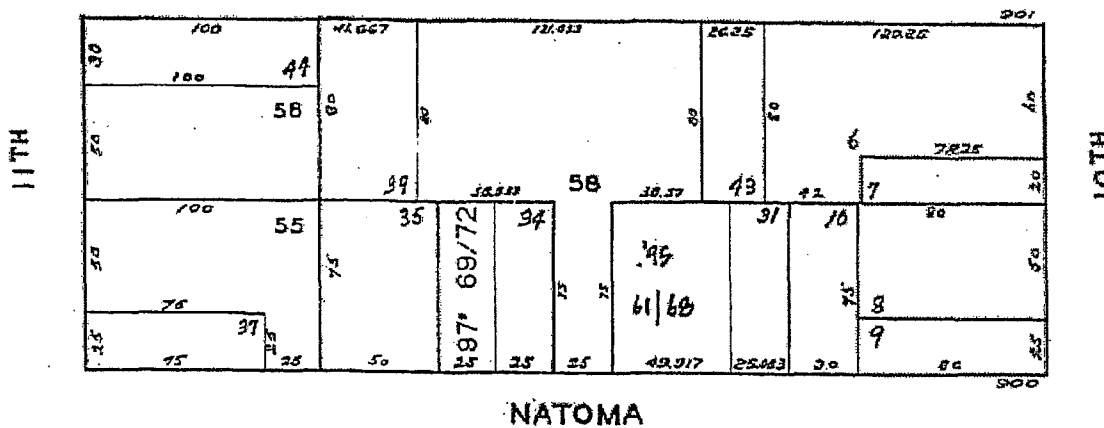


Table 1 below identifies the five parcels by lot number, address, current lessee, square feet, current monthly rent and dates of existing leases to be purchased under the proposed resolution. Each parcel contains older structures, including (a) a single story industrial building that extends over Lots 055 and 056, (b) a two-story structure that is a vacant restaurant on the

¹ The one parcel at the corner of 11th and Minna Streets, labeled 44 in the map above, is not included in the proposed acquisition, which has a separate owner.

first floor on Lot 039, and (c) older warehouse structures on both Lots 035 and 037. The five parcels contain a total of 19,570 square feet of land, including 21,124 square feet of building area. Under the proposed purchase agreement, the City would assume three existing commercial leases that expire on or before September 30, 2021, and currently generate total monthly rent of \$20,395, as shown in Table 1 below.

Table 1: Parcels Proposed for Purchase by Recreation and Park Department

Block 3510 Lot Nos.	Address	Current Lessees ²	Square Feet of Land	Square Feet of Building	Current Monthly Rent	Dates of Existing Leases With Options
055-056	145-147 11 th Street	American Refrig Supplies	10,619	10,619	\$12,288	10/1991-9/2021
039	973 Minna Street	Vacant	3,332	3,332	0	NA
035	964 Natoma Street	Adventure Ambassadors	3,746	5,300	5,507	1/2006-6/2018
037	165 11 th Street	Dixon & Moe	1,873	1,873	2,600	10/2016-9/2019
Total			19,570	21,124	\$20,395	

Under the proposed purchase agreement, the City would assume the rights and obligations under these leases. RPD intends to allow the existing tenants to remain on the properties in accordance with their lease terms and to use the revenues received from the rents to pay all operating and related expenses for the properties, which are anticipated to be negligible. Mr. Joshua Keene of the Real Estate Division advises that the current leases require the tenants to pay all maintenance and operating expenses. Ms. Bradley advises that surplus rent revenues would also be used by RPD to begin the planning necessary to develop these five contiguous parcels into a neighborhood park after the expiration of these leases.

RPD anticipates working with the community to undertake feasibility studies to identify various recreational opportunities at this site, including short-term options as the leases are phased out over the next four years as well as a long-term plan for development. In accordance with the proposed resolution, any future building demolition and conversion of the properties to a park will be subject to review and approval by the Recreation and Park Commission following required environmental review. To develop the five parcels into open space and a public park will require the potential demolition of four existing buildings on these parcels.

On August 18, 2016, the Recreation and Park Commission approved the purchase of the subject properties at a purchase price of \$9,725,000 with monies from the Open Space Acquisition Fund and urged the subsequent required actions by the Board of Supervisors (Resolution No. 1608-006).

California Environmental Quality Act (CEQA) Guidelines and City's General Plan

On April 4, 2017, the Planning Department determined that the acquisition of the five subject properties is not considered a project under CEQA and is consistent with the City's General Plan

² American Refrigeration Supplies provides wholesale, retail, repair and distribution of air-conditioning and refrigeration supplies. Adventure Ambassadors provides warehousing storage and distribution for adventure sports equipment. Dixon & Moe is a software development and publishing company.

and eight priority policies of Planning Code Section 101.1³. The proposed resolution would affirm the Planning Department's determination under CEQA and find that the proposed acquisition is consistent with the City's General Plan and Planning Code Section 101.1 for the reasons specified by Planning.

FISCAL IMPACT

Appraisal and Appraisal Review

An appraisal conducted by Clifford Advisory LLC in September 2016 determined that the subject five parcels are valued at \$10,000,000, based on the interim lease income and potential mixed-use redevelopment on one consolidated parcel. An appraisal review report conducted by CBRE in October 2016 found that the appraisal value of \$10,000,000 is reasonable and supported based on the data and analysis in the appraisal. As noted above, the purchase price would be \$9,725,000, or \$275,000 less than the appraised value.

The purchase price of \$9,725,000 reflects an average of approximately \$497 per square foot based on the total 19,570 square feet of land.

Closing Costs

In addition to the purchase price of \$9,725,000, the City will pay 100% of the closing costs. Closing costs are estimated to total approximately 1% of the purchase price or approximately \$100,000. Therefore, the total estimated City acquisition and closing costs are \$9,825,000.

Property Taxes

The current property owner pays the City \$7,762 in annual property taxes that are deposited into the City's General Fund, which can be passed on to the existing tenants as Possessory Interest Taxes. Under the existing leases, tenants will continue to pay Possessory Interest Taxes to the City. Upon termination of the existing leases, the subject parcels will no longer generate such annual tax revenues.

Open Space Acquisition Fund

The Open Space Acquisition Fund currently has a \$11,206,784 Fund balance. Assuming total costs of \$9,825,000 would leave a remaining balance of \$1,381,784 in the Open Space Acquisition Fund. Over the next five years, between \$2.7 million and \$3.0 million is projected to be deposited into the Open Space Acquisition Fund each year, to replenish this Fund.

Projected Lease Revenues

Assuming immediate acquisition of the five parcels, such that the City would begin receiving rent effective July 1, 2017, Table 2 below summarizes the total rents of \$815,773 to be realized from the three existing leases on the five parcels.

³ The eight priorities look for impacts on retail uses, resident employment, San Francisco's housing stock or neighborhood character, public transit service, industrial or service sectors, earthquake preparedness, historical buildings, or parks and open spaces.

Table 2: Total Lease Revenues

Current Lessees	American Refrigeration Supplies***	Adventure Ambassadors*	Dixon & Moe**	Total
7/1/2017-12/31/2017	\$74,836	\$33,042	\$16,200	\$124,078
1/1/2018-12/31/2018	153,023	33,042	34,200	220,265
1/1/2019-12/31/2019	157,613	0	27,000	184,613
1/1/2020-12/31/2020	162,342	0	0	162,342
1/1/2021-12/31/2021	124,475	0	0	124,475
Total	\$672,289	\$66,084	\$77,400	\$815,773

* Assumes termination of lease with Adventure Ambassadors on 6/30/2018.

** Assumes termination of lease with Dixon & Moe on 9/30/2019.

*** Assumes termination of lease with American Refrigeration Supplies on 9/30/2021.

RPD intends to use the \$815,773 of revenues from these leased properties, after paying all costs of operation and maintenance of the five properties, for planning and other costs related to the potential conversion of the properties to a public park following the expiration of the leases. RPD advises they cannot currently estimate the total costs to plan, develop and construct a new neighborhood park at this location because working with the community and completing feasibility studies is necessary before determining the best short-term and long-term uses for the subject properties.

Revenue Sources to Develop and Maintain Neighborhood Park

In addition to the \$815,773 rent revenues to be received from the above-noted leases, RPD has identified approximately \$8.7 million of Eastern Neighborhood Impact Fees that would be available for development funds in this western SoMa neighborhood. Ms. Bradley advises that additional grant funds and impact fees will also likely need to be secured, once the development and construction budget is more fully developed.

The estimated costs to operate and maintain this future neighborhood park will be determined as part of the feasibility studies. RPD will need to include the cost for operation and maintenance of this park in RPD's annual Operations budget, subject to Board of Supervisors future appropriation approval.

RECOMMENDATION

Approve the proposed resolution.

AMENDED AND RESTATED
AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE

by and between

ARES COMMERCIAL PROPERTIES,, Inc.
A California corporation
as Seller

and

CITY AND COUNTY OF SAN FRANCISCO,
as Buyer

For the purchase and sale of

Block 3510, Lots 035, 037, 039, 055 & 056
(11th Street between Minna and Natoma Streets)
San Francisco, California 94103

March 8, 2017

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LIST OF EXHIBITS

- EXHIBIT A – Real Property Description
- EXHIBIT B – Real Property Details
- EXHIBIT C – Grant Deed
- EXHIBIT D – Bill of Sale
- EXHIBIT E – Assignment of Leases
- EXHIBIT F – Tenant's Estoppel Certificate
- EXHIBIT G – Certificate of Transferor Other Than An Individual (FIRPTA Affidavit)
- EXHIBIT H – Designation Agreement
- EXHIBIT I – Memorandum of Agreement

**AMENDED AND RESTATED
AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE**
(Block 3510, Lots 035, 037, 039, 055 & 056, San Francisco, CA 94103)
(11th Street between Minna and Natoma Streets)

THIS AMENDED AND RESTATED AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE (this "Agreement") dated for reference purposes only as of March 8, 2017 is by and between ARES COMMERCIAL PROPERTIES, Inc. a California corporation ("Seller"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Buyer" or "City").

IN CONSIDERATION of the payment of the non-refundable sum of Nine Million Seven Hundred Twenty Five Thousand and no/100 Dollars (\$9,725,000.00) by City, the receipt of which is hereby acknowledged by Seller, and the respective agreements contained hereinbelow, Seller and City agree as follows:

1. PURCHASE AND SALE

1.1 Property Included in Sale

Seller agrees to sell and convey to City, and City agrees to purchase from Seller, subject to the terms, covenants and conditions hereinafter set forth, the following:

(a) the real property consisting of approximately nineteen thousand five hundred (19,500) square feet of improved land, located in the City and County of San Francisco, commonly known as Block 3510, lots 035, 037, 039, 055 & 056. Sheet and more particularly described in Exhibit A attached h hereto (the "Land");

(b) all improvements and fixtures located on the Land, including, without limitation (i) as further detailed in Exhibit B, and (ii) those certain multi-story buildings containing approximately THIRTY NINE THOUSAND FIVE HUNDRED FORTY (39,540) square feet of net rentable area and known as 145 11th Street, 147 11th Street, 161-165 11th Street, 973 Minna Street, and 964 Natoma Street, as well as all other buildings and structures located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land and its improvements such as heating and air conditioning systems and facilities used to provide any utility, refrigeration, ventilation, garbage disposal or other services, and together with all on-site parking (collectively, the "Improvements");

(c) any and all rights, privileges, and easements incidental or appurtenant to the Land or Improvements, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Land, as well as any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Land, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land or Improvements, and any and all of Seller's right, title and interest in and to all roads and alleys adjoining or servicing the Land or Improvements (collectively, the "Appurtenances");

(d) all personal property owned by Seller located on or in or used in connection with the Land or Improvements as of the date of this Agreement and as of the Closing Date (as defined in Section 6.2, Closing Date); and

All of the items referred to in Subsections (a), (b), (c), and (d) above are collectively referred to as the "Property."

2. PURCHASE PRICE

2.1 Purchase Price

The total purchase price for the Property is Nine Million Seven Hundred Twenty-Five Thousand Dollars (\$9,725,000.00) (the "Purchase Price").

2.2 Payment

On the Closing Date (as defined in Section 6.2 [Closing Date]), City shall pay the Purchase Price, adjusted pursuant to the provisions of Article 7 [Expenses and Taxes], and reduced by any credits due City hereunder.

Seller acknowledges and agrees that if Seller fails at Closing to deliver to City the documents required under Sections 6.3(h) and 6.3(i) [Seller's Delivery of Documents], City may be required to withhold a portion of the Purchase Price pursuant to Section 1445 of the United States Internal Revenue Code of 1986, as amended (the "Federal Tax Code"), or Section 18662 of the California Revenue and Taxation Code (the "State Tax Code"). Any amount properly so withheld by City shall be deemed to have been paid by City as part of the Purchase Price, and Seller's obligation to consummate the transaction contemplated herein shall not be excused or otherwise affected thereby.

2.3 Funds

All payments made by any party hereto shall be in legal tender of the United States of America, paid by cash or by wire transfer of immediately available funds to Title Company (as defined below), as escrow agent.

3. TITLE TO THE PROPERTY

3.1 Conveyance of Title to the Property

At the Closing Seller shall convey to City, or its nominee, marketable and insurable fee simple title to the Land, the Improvements and the Appurtenances, by duly executed and acknowledged grant deed in the form attached hereto as Exhibit C (the "Deed"), subject to the Accepted Conditions of Title (as defined in Section 3.2 [Title Insurance]).

3.2 Title Insurance

Delivery of title in accordance with the preceding Section shall be evidenced by the commitment of Stewart Title Guarantee Company (the "Title Company") to issue to City, or its nominee, an ALTA extended coverage owner's policy of title insurance (Form B - 1970 amended 4-6-90) (the "Title Policy") in the amount of the Purchase Price, insuring fee simple title to the Land, the Appurtenances and the Improvements in City, or its nominee, free of the liens of any and all deeds of trust, mortgages, assignments of rents, financing statements, creditors' claims, rights of tenants or other occupants (except for the tenants under existing leases disclosed to City without any rights or options to purchase any of the Property), and all other exceptions, liens and encumbrances except solely for the Accepted Conditions of Title pursuant to Section 5.1(a) below. The Title Policy shall provide full coverage against mechanics' and materialmen's liens arising out of the construction, repair or alteration of any of the Property, shall not contain any exclusion from coverage for creditor's rights or bankruptcy, and shall contain an affirmative endorsement that there are no violations of restrictive covenants, if any, affecting the Property such special endorsements as City may reasonably request. The Title Policy shall also provide

for reinsurance with direct access with such companies and in such amounts as City may reasonably request.

3.3 Bill of Sale

At the Closing Seller shall transfer title to the Personal Property by bill of sale in the form attached hereto as Exhibit D (the "Bill of Sale"), such title to be free of any liens, encumbrances or interests.

3.4 Assignment of Leases

At the Closing Seller shall transfer its title to the Leases by an assignment of leases in the form attached hereto as Exhibit E (the "Assignment of Leases"), such title to be free of any liens, encumbrances or interests, except for the Accepted Conditions of Title.

4. BUYER'S DUE DILIGENCE INVESTIGATIONS

4.1 Due Diligence and Time for Satisfaction of Conditions

City has been given a full opportunity to investigate the Property, either independently or through agents of City's own choosing, including, without limitation, the opportunity to conduct such appraisals, inspections, tests, audits, verifications, inventories, investigations and other due diligence regarding the economic, physical, environmental, title and legal conditions of the Property as City deems fit, as well as the suitability of the Property for City's intended uses. City agrees that it has completed its due diligence investigations on the Property and that the period for completion of all such investigations (the "Due Diligence Period") has expired.

4.2 Energy Consumption

City acknowledges and agrees that Seller delivered the Disclosure Summary Sheet, Statement of Energy Performance, Data Checklist, and Facility Summary (all as defined in the California Code of Regulations, Title 20, Division 2, Chapter 4, Article 9, Section 1680) for the Property, copies of which are attached as Schedule 1 to this Agreement, no less than 24 hours prior to City's execution of this Agreement.

5. ENTRY

During the Due Diligence Period and at all times prior to the Closing Date Seller shall afford City and its Agents reasonable access to the Property and all books and records located therein for the purposes of satisfying City with respect to the representations, warranties and covenants of Seller contained herein and the satisfaction of the Conditions Precedent including, without limitation, the drilling of test wells and the taking of soil borings. City hereby agrees to indemnify and hold Seller harmless from any damage or injury to persons or property caused by City or its Agents during any such entries onto the Property prior to the Closing, except to the extent such damage or injury is caused by the acts or omissions of Seller or any of its Agents. The foregoing Indemnity shall not include any claims resulting from the discovery or disclosure of pre-existing environmental conditions or the non-negligent aggravation of pre-existing environmental conditions on, in, under or about the Property, including the Improvements. Seller understands and agrees that any indemnity obligation of City in this Agreement shall not be enforceable unless and until the Effective Date has occurred. City agrees to provide that Seller will be a third party beneficiary under any contract City enters into for due diligence

investigations on the Property during the Due Diligence Period. In the event this Agreement is terminated for any reason other than Seller's default hereunder, City shall restore the Property to substantially the condition it was found subject to applicable laws. This indemnity shall survive the termination of this Agreement or the Closing, as applicable, provided that Seller must give notice of any claim it may have against City under such indemnity (i) within six (6) months of such termination if the claim is brought by a third party against Seller or (ii) within three (3) months of such termination or the Closing Date, as applicable, if the claim involves damage to Seller's Property or any other claim not brought by a third party against the Seller.

5.1 City's Conditions to Closing

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

(a) City shall have reviewed and approved title to the Property, as follows:

(i) Within five (5) days after the date this Agreement is executed by Seller and approved as to form by City's Office of the City Attorney ("Approved as to Form Date"), Seller shall deliver to City a current extended coverage preliminary report on the Real Property, issued by Title Company, accompanied by copies of all documents referred to in the report (collectively, the "Preliminary Report");

(ii) Within the period referred to in clause (i) above, Seller shall deliver to Buyer copies of any existing or proposed easements, covenants, restrictions, agreements or other documents that affect the Property, and are not disclosed by the Preliminary Report, or, if Seller knows of no such documents, a written certification of Seller to that effect; and

(iii) City may at its option arrange for an "as-built" survey of the Real Property and Improvements prepared by a licensed surveyor (the "Survey"). Such survey shall be acceptable to, and certified to, City and Title Company and in sufficient detail to provide the basis for and the Title Policy without boundary, encroachment or survey exceptions.

City shall advise Seller, prior to the end of the Due Diligence period, what exceptions to title, if any, City is willing to accept (the "Accepted Conditions of Title"). City's failure to so advise Seller within such period shall be deemed disapproval of title. Seller shall have ten (10) days after receipt of City's notice of any objections to title to give City: (A) evidence satisfactory to City of the removal of all objectionable exceptions from title or that such exceptions will be removed or cured on or before the Closing; or (B) notice that Seller elects not to cause such exceptions to be removed. If Seller gives notice under clause (B), City shall have ten (10) business days to elect to proceed with the purchase or terminate this Agreement. If City shall fail to give Seller notice of its election within such ten (10) days, City shall be deemed to have elected to terminate this Agreement. If Seller gives notice pursuant to clause (A) and fails to remove any such objectionable exceptions from title prior to the Closing Date, and City is unwilling to take title subject thereto, Seller shall be in default hereunder and City shall have the rights and remedies provided herein or at law or in equity.

(b) City's review and approval, within the Due Diligence Period, of the physical and environmental conditions of the Property, including, without limitation, structural, mechanical, electrical and other physical conditions of the Property.

(c) City's review and approval, within the Due Diligence Period, of the environmental condition of the Property, including an examination for the presence or absence of any Hazardous Material (as defined in Section 8.1(j)). City shall be responsible for performing or

arranging any such reviews at City's expense, provided that if City's consultants reasonably determine that, based upon their Phase I examination, a Phase II examination is necessary with respect to all or a part of the Real Property, City may elect to perform a Phase II examination.

If any of City's investigations reveal any contamination of the Property with any Hazardous Material, then City may, at its sole election, by written notice to Seller on or before the end of the Due Diligence Period: (i) request that Seller, at Seller's sole cost, complete before the Closing through duly licensed contractors approved by City such activities as are necessary to cleanup, remove, contain, treat, stabilize, monitor or otherwise control Hazardous Material located on or under the Property in compliance with all governmental laws, rules, regulations and requirements and in accordance with a written remediation plan approved by City in its sole discretion and by all regulatory agencies with jurisdiction; or (ii) provide City with a credit against the Purchase Price for the full cost estimated by City to remediate the Hazardous Materials, including without limitation testing and consultants costs (the "Hazardous Materials Credit"). If City notifies Seller of its election to request that Seller remediate the contamination as provided in clause (i) above, Seller shall have fifteen (15) days after receipt of City's notice, to elect, at Seller's sole option, to provide City with: (iii) Seller's election to remediate the contamination before the Closing pursuant to clause (i) above; or (iv) Seller's election to provide the Hazardous Materials Credit. Seller's failure to provide notice to Buyer within such fifteen (15)-day period shall be deemed notice of Seller's agreement to the Hazardous Material Credit under clause (iv) above. If Seller chooses to remediate the contamination as provided in clause (iii) above the Closing may be extended for a reasonable time to enable Seller to complete such remediation, provided any such extension shall be subject to City's prior written approval, which City may give or withhold in its sole discretion. Seller shall indemnify City for any claims relating to the remediation of such Hazardous Material pursuant to a separate written agreement in form and substance satisfactory to City.

(d) City's review and approval, within the Due Diligence Period, of the compliance of the Property with all applicable laws, regulations, permits and approvals.

(e) City's review and approval, within the Due Diligence Period, of (i) the following documents, all to the extent such documents exist and are either in the possession or control of Seller or may be obtained by Seller through the exercise of commercially reasonable efforts: structural calculations for the Improvements; site plans; certified copies of the as-built plans and specifications for the Improvements; recent inspection reports by Seller's engineers; service contracts; utility contracts; maintenance contracts; employment contracts, management contracts; brokerage and leasing commission agreements which may continue after Closing; certificates of occupancy; presently effective warranties or guaranties received by Seller from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repair or alteration of the Improvements or any tenant improvements; insurance policies, insurance certificates of tenants, and reports of insurance carriers insuring the Property and each portion thereof respecting the claims history of the Property; environmental reports, studies, surveys, tests and assessments; soils and geotechnical reports; and any other contracts or documents of significance to the Property (collectively, the "Documents"); and (ii) such other information relating to the Property that is specifically requested by City of Seller in writing during the Due Diligence Period (collectively, the "Other Information").

(f) City's review and approval, within the Due Diligence Period, of all the Tenants rent payment histories for the three (3) most recent calendar years prior to Closing, all to the extent such documents exist and are either in the possession or control of Seller or may be obtained by Seller through the exercise of commercially reasonable efforts.

(g) City's review and approval, within the Due Diligence Period, of Seller's Tax Return, and income and expense statements for the Property for the three (3) most recent

calendar years prior to Closing to the extent such income and expense statements exist and are either in the possession or control of Seller or may be obtained by Seller through the exercise of commercially reasonable efforts.

(h) City's confirmation at Closing of: (i) those certain leases and other occupancy agreements affecting the Property and identified in Schedule 1 of the Exhibit E, Assignment of Leases ("Leases"), and (ii) a current rent roll for the Property, prepared by Seller, all to the extent such documents exist and are either in the possession or control of Seller or may be obtained by Seller through the exercise of commercially reasonable efforts. In the event any lease, license, or other occupancy agreement other than the Leases affects the Property at the time of Closing and has not been previously approved in writing by City in its sole discretion, then the Condition Precedent described in this Section 5.1(h) shall have failed and City may terminate or pursue other available remedies as set forth in this Agreement, in its sole discretion.

(i) Seller's obtaining and delivering to City, before the Closing Date, tenant estoppel certificates in form and substance satisfactory to City from any and all tenants occupying any portion of the Property. Such certificates shall be substantially in the form attached hereto as Exhibit F and shall be dated no earlier than thirty (30) days prior to the Closing Date. Notwithstanding the foregoing, to the extent Seller is unable, despite its best efforts, to obtain estoppel certificates from no more than one (1) tenant, Seller shall be obligated to, warrant and represent to City, with respect to such missing estoppel certificates, as of the date represented and warranted: (A) that the Leases for those tenants are in full force and effect; (B) the amount of the tenants' security deposits; (C) the dates through which rent has been paid; (D) that neither any of those tenants nor Seller is in default under the Leases; and (E) the lease expiration date and the terms of any options to extend, if any City shall be obligated to accept such a certification in lieu of any such missing estoppel certificates. The representations and warranties in the certificate of Seller shall survive the Closing.

(j) Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement, and all of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date. At the Closing Seller shall deliver to City a certificate certifying that each of Seller's representations and warranties contained in Section 8.1 [Representations and Warranties of Seller] below are true and correct as of the Closing Date.

(k) The physical condition of the Property 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 Section 9.1 [Risk of Loss]), and, as of the Closing Date, there shall be no litigation or administrative agency or other governmental proceeding, pending or threatened, which after the Closing would materially adversely affect the value of the Property or the ability of City to operate the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the change, redesignation or other modification of the zoning classification of, or of any building or environmental code requirements applicable to, any of the Property.

(l) Title Company shall be committed at the Closing to issue to City, or its nominee, (i) the Title Policy as provided in Section 3.2 [Title Insurance] and (ii) an ALTA extend coverage policy of leasehold title insurance in the amount of the Purchase Price, subject only to the Accepted Conditions of Title together with the same endorsements as the Title Policy.

(m) City's receipt and acceptance of funds issued by the State of California intended to fund the acquisition of the Property.

(n) The transactions contemplated herein shall have been approved by all applicable City departments and agencies, including, without limitation, the Recreation and Parks Commission.

(o) The City's Mayor and the Board of Supervisors, in the respective sole discretion of each, shall have enacted a resolution approving, adopting and authorizing this Agreement and the transactions within seventy five (75) days of the expiration of the Due Diligence Period.

(p) Seller shall have delivered the items described in Section 6.3 below [Seller's Delivery of Documents] on or before the Closing.

The Conditions Precedent contained in the foregoing Subsections (a) through (p) are solely for the benefit of City. If any Condition Precedent is not satisfied, City shall have the right in its sole discretion either to waive in writing the Condition Precedent in question and proceed with the purchase or, in the alternative, terminate this Agreement, provided that the Conditions Precedent described in items (n) and (o) above may not be waived. 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. If City shall not have approved or waived in writing all of the Conditions Precedent in items (a) through (h) by the end of the Due Diligence Period, then this Agreement shall automatically terminate. In addition, the Closing Date may be extended, at City's option, for a reasonable period of time specified by City (but not to exceed 90 days), 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 all such Conditions Precedent have not been satisfied.

In the event the sale of the Property is not consummated because of a default under this Agreement on the part of Seller or if a Condition Precedent cannot be fulfilled because Seller frustrated such fulfillment by some affirmative act or negligent omission, City may, at its sole election, either (1) terminate this Agreement by delivery of notice of termination to Seller, whereupon Seller shall pay to City any title, escrow, inspection fees incurred by City and any other expenses incurred by City in connection with the performance of its due diligence review of the Property, and neither party shall have any further rights or obligations hereunder, or (2) continue this Agreement pending City's action for specific performance and/or damages hereunder, including, without limitation, City's costs and expenses incurred hereunder.

5.2 Cooperation with City

Seller shall cooperate with City and do all acts as may be reasonably requested by City 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 to City shall not be affected or released by City's waiver or fulfillment of any Condition Precedent. Seller hereby irrevocably authorizes City and its Agents to make all inquiries with and applications to any person or entity, including, without limitation, any regulatory authority with jurisdiction as City may reasonably require to complete its due diligence investigations.

6. ESCROW AND CLOSING

6.1 Opening of Escrow

On or before the Effective Date (as defined in Article 11 [General Provisions]), the parties shall open escrow by depositing an executed counterpart of this Agreement with Title Company, and this Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. Seller and City agree to

execute such additional or supplementary instructions as may be appropriate to enable the escrow holder to comply with the terms of this Agreement and close the transaction; provided, however, that in the event of any conflict between the provisions of this Agreement and any additional supplementary instructions, the terms of this Agreement shall control.

6.2 Closing Date

Up until the first year anniversary of the Effective Date (the "Notice Period"), Seller may notify City in writing (the "Seller's Closing Notice") that it desires to consummate the purchase and sale contemplated hereby (the "Closing"). If such notice has not been received by City prior to expiration of the Notice Period, the date of Seller's Closing Notice shall be the first anniversary of the Effective Date. The Closing shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of Title Company located at 100 Pine St., Suite 450, San Francisco, CA 94111, on the thirtieth (30th) day after the date of Seller's Closing Notice or such earlier date as City and Seller may mutually agree (the "Closing Date"), provided that the Due Diligence Period has expired and subject to the provisions of Article 5 [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. In the event the Closing does not occur on or before the Closing Date, Title Company shall, unless it is notified by both parties to the contrary within five (5) days after the Closing Date, return to the depositor thereof items which may have been deposited hereunder. Any such return shall not, however, limit the provisions hereof or otherwise relieve either party hereto of any liability it may have for its wrongful failure to close.

6.3 Seller's Delivery of Documents

At or before the Closing, Seller shall deliver to City through escrow, the following:

- (a) a duly executed and acknowledged Deed;
- (b) duly executed Bill of Sale;
- (c) four (4) duly executed and acknowledged counterparts of the Assignment of Leases;
- (d) duly executed tenant estoppel certificates as required pursuant to Section 5.1(g) hereof;
- (e) originals of the Documents, Leases and any other items relating to the ownership or operation of the Property not previously delivered to City;
- (f) a properly executed affidavit pursuant to Section 1445(b)(2) of the Federal Tax Code in the form attached hereto as Exhibit G, and on which City is entitled to rely, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code;
- (g) a properly executed California Franchise Tax Board Form 590 certifying that Seller is a California resident if Seller is an individual or 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 State Tax Code;
- (h) such resolutions, authorizations, or other corporate documents or agreements relating to Seller and its shareholders as City or the Title Company 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;

- (i) closing statement in form and content satisfactory to City and Seller; and
- (j) the duly executed certificate regarding the continued accuracy of Seller's representations and warranties as required by Section 5:1() hereof.

6.4 City's Delivery of Documents and Funds

At or before the Closing, City shall deliver to Seller through escrow the following:

- (a) an acceptance of the Deed executed by City's Director of Property;
- (b) four (4) duly executed [and acknowledged] counterparts of the Assignment of Leases;
- (c) a closing statement in form and content satisfactory to City and Seller;
- (d) the Purchase Price, as provided in Article 2 hereof.

and

6.5 Other Documents

Seller and City shall each deposit such other instruments as are reasonably required by Title Company as escrow holder or otherwise required to close the escrow and consummate the purchase of the Property in accordance with the terms hereof, including, without limitation, an agreement (the "Designation Agreement") designating Title Company as the "Reporting Person" for the transaction pursuant to Section 6045(e) of the Federal Tax Code and the regulations promulgated thereunder, and executed by Seller, City and Title Company. The Designation Agreement shall be substantially in the form attached hereto as Exhibit H and, in any event, shall comply with the requirements of Section 6045(e) of the Federal Tax Code and the regulations promulgated thereunder.

7. EXPENSES AND TAXES

7.1 Rent and Other Apportionments

The following are to be apportioned through escrow as of the Closing Date:

- (a) **Rent**

Rent under the Leases shall be apportioned as of the Closing Date, regardless of whether or not such rent has been paid to Seller. With respect to any rent arrearage arising under the Leases, after the Closing, City shall pay to Seller any rent actually collected which is applicable to the period preceding the Closing Date; provided, however, that all rent collected by City shall be applied first to all unpaid rent accruing on and after the Closing Date, and then to unpaid rent accruing prior to the Closing Date. City shall not be obligated to take any steps to recover any rent arrearage, and Seller shall not be permitted to do so.

(b) Leasing Costs

Seller shall pay all leasing commissions and tenant improvement costs accrued in connection with any Lease executed on or before the Closing (including, without limitation, leasing commissions attributable to expansion or extension options which are not exercised until after the Closing). City shall be entitled to a credit against the Purchase Price for the total sum of all security deposits paid to Seller by tenants under any Leases, and any interest earned thereon, as well as for any free rent, operating expense abatements, or other unexpired concessions under any Leases to the extent they apply to any period after the Closing.

(c) Other Tenant Charges

Where the Leases contain tenant obligations for taxes, common area expenses, operating expenses or additional charges of any other nature, and where Seller shall have collected any portion thereof in excess of amounts owed by Seller for such items for the period prior to the Closing Date, there shall be an adjustment and credit given to City on the Closing Date for such excess amounts collected. City shall apply all such excess amounts to the charges owed by City for such items for the period after the Closing Date and, if required by the Leases, shall rebate or credit tenants with any remainder. If it is determined that the amount collected during Seller's ownership period exceeded expenses incurred during the same period by more than the amount previously credited to City at Closing, then Seller shall promptly pay the deficiency to City.

(d) Utility Charges

Seller shall cause all the utility meters to be read on the Closing Date, and will be responsible for the cost of all utilities used prior to the Closing Date. All utility deposits paid by Seller shall remain the property of Seller and City shall reasonably cooperate to cause such deposits to be returned to Seller to the extent Seller is entitled thereto.

(e) Other Apportionments

Amounts payable under any contracts assumed pursuant hereto, annual or periodic permit or inspection fees (calculated on the basis of the period covered), and liability for other normal Property operation and maintenance expenses and other recurring costs shall be apportioned as of the Closing Date.

7.2 Closing Costs

City shall pay the cost of the Survey, the premium for the Title Policy and the cost of the endorsements thereto, and escrow and recording fees. City shall pay the cost of any transfer taxes applicable to the sale. Seller shall be responsible for all costs incurred in connection with the prepayment or satisfaction of any loan, bond or other indebtedness secured by the Property including, without limitation, any prepayment fees, penalties or charges. Any other costs and charges of the escrow for the sale not otherwise provided for in this Section or elsewhere in this Agreement shall be allocated in accordance with the closing customs for San Francisco County, as determined by Title Company.

7.3 Real Estate Taxes and Special Assessments

General real estate taxes payable for the tax year prior to year of Closing and all prior years shall be paid by Seller at or before the Closing. General real estate taxes payable for the tax year of the Closing shall be prorated through escrow by Seller and City as of the Closing Date. At or before the Closing, Seller shall pay the full amount of any special assessments

against the Property, including, without limitation, interest payable thereon, applicable to the period prior to the Closing Date.

7.4 Preliminary Closing Adjustment

Seller and City shall jointly prepare a preliminary Closing adjustment on the basis of the Leases and other sources of income and expenses, and shall deliver such computation to Title Company prior to Closing.

7.5 Post-Closing Reconciliation

If any of the foregoing prorations cannot be calculated accurately on the Closing Date, then they shall be calculated as soon after the Closing Date as feasible. Either party owing the other party a sum of money based on such subsequent prorations shall promptly pay such sum to the other party.

7.6 Survival

The provisions of this Section shall survive the Closing.

8. REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of Seller

Seller represents and warrants to and covenants with City as follows:

(a) To the best of Seller's knowledge, there are now, and at the time of the Closing will be, no material physical or mechanical defects of the Property, and no violations of any laws, rules or regulations applicable to the Property, including, without limitation, any earthquake, life safety and handicap laws (including, but not limited to, the Americans with Disabilities Act).

(b) The Leases, Documents and Other Information furnished to City are all of the relevant documents and information pertaining to the condition and operation of the Property to the extent available to Seller, and are and at the time of Closing will be true, correct and complete copies of such documents and the Leases are and at the time of Closing will be in full force and effect, without default by (or notice of default to) any party.

(c) No document or instrument furnished or to be furnished by the Seller to the City in connection with this Agreement contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

(d) Seller does not have knowledge of any condemnation, either instituted or planned to be instituted by any governmental or quasi-governmental agency other than City, which could detrimentally affect the use, operation or value of the Property.

(e) To Seller's knowledge, all water, sewer, gas, electric, telephone, and drainage facilities and all other utilities required by law or by the normal use and operation of the Property are and at the time of Closing will be installed to the property lines of the Property and are and at the time of Closing will be adequate to service the Property.

(f) There are no easements or rights of way which have been acquired by prescription or which are otherwise not of record with respect to the Property, and there are no easements, rights of way, permits, licenses or other forms of agreement which afford third parties the right to traverse any portion of the Property to gain access to other real property. There are no disputes with regard to the location of any fence or other monument of the Property's boundary nor any claims or actions involving the location of any fence or boundary.

(g) There is no litigation pending or, after due and diligent inquiry, to the best of Seller's knowledge, threatened, against Seller or any basis therefor that arises out of the ownership of the Property or that might detrimentally affect the use or operation of the Property for its intended purpose or the value of the Property or the ability of Seller to perform its obligations under this Agreement.

(h) Seller is the legal and equitable owner of the Property, with full right to convey the same, and without limiting the generality of the foregoing, Seller has not granted any option or right of first refusal or first opportunity to any third party to acquire any interest in any of the Property.

(i) Seller is a corporation duly organized and validly existing under the laws of the State of California and is in good standing under the laws of the State of California; this Agreement and all documents executed by Seller which are to be delivered to City at the Closing are, or at the Closing will be, duly authorized, executed and delivered by Seller, are, or at the Closing will be, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, are, and at the Closing will be, sufficient to convey good and marketable title (if they purport to do so), and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

(j) Seller represents and warrants to City that it has not been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event Seller has been so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension, debarment, discipline or prohibition may result in the termination or suspension of this Agreement.

(k) Seller knows of no facts nor has Seller failed to disclose any fact that would prevent City from using and operating the Property after Closing in the normal manner in which it is intended. Notwithstanding such representation, Seller makes no warranty regarding City's intended use of the Property.

(l) Seller hereby represents and warrants to and covenants with City that the following statements are true and correct and will be true and correct as of the Closing Date: (i) the Property to the best of Seller's knowledge is not in violation of any Environmental Laws; (ii) the Property is not now, nor to the best of Seller's knowledge has it ever been, used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material, except as described in Schedule 1 ("Seller's Environmental Disclosure"); (iii) there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the Property; (iv) there have not been and there are not now any underground storage tanks, septic tanks or wells or any aboveground storage tanks at any time used to store Hazardous Material located in, on or under the Property, or if there have been or are any such tanks or wells located on the Property, their location, type, age and content has been specifically identified in Seller's Environmental Disclosure, they have been properly registered with all appropriate authorities, they are in full compliance with all applicable statutes, ordinances and

regulations, and they have not resulted in the release or threatened release of any Hazardous Material into the environment; (v) the Property does not consist of any landfill or of any building materials that contain Hazardous Material; and (vi) the Property is not subject to any claim by any governmental regulatory agency or third party related to the release or threatened release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in, on, under or about the Property, or the migration of Hazardous Material from or to other property. As used herein, the following terms shall have the meanings below:

(i) "Environmental Laws" shall mean any present or future federal, state or local laws, ordinances, regulations or policies relating to Hazardous Material (including, without limitation, their use, handling, transportation, production, disposal, discharge or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Property, including, without limitation, soil, air and groundwater conditions.

(ii) "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. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the structure of the Improvements or are naturally occurring substances on or about the Property; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids; and "source," "special nuclear" and "by-product" material as defined in the Atomic Energy Act of 1985, 42 U.S.C. Section 3011 et seq.

(iii) "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 Property. Release shall include, without limitation, "release" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601).

(m) There are now, and at the time of Closing will be, no occupancy agreements affecting any of the Property except the Leases. At the time of Closing there will be no outstanding written or oral contracts made by Seller for any of the Improvements that have not been fully paid for and Seller shall cause to be discharged all mechanics' or materialmen's liens arising from any labor or materials furnished to the Property prior to the time of Closing. There are no obligations in connection with the Property which will be binding upon City after Closing except for matters which are set forth in the Preliminary Report and except for the Leases.

(n) Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code.

(o) There are no free rent, operating expense abatements, incomplete tenant improvements, rebates, allowances, or other unexpired concessions (collectively referred to as "Offsets") or any termination, extension, cancellation or expansion rights under any existing or

pending Leases (with the exception of those summarized in Schedule 2 attached hereto); and all of the Leases are absolutely net (including the full pass-through of management fees), except for replacement of major capital items, such as roof, foundation and structural components. Seller has paid in full any of landlord's leasing costs incurred by Seller in connection with any tenant improvements.

(p) No brokerage or similar fee is due or unpaid by Seller with respect to any Lease. No brokerage or similar fee shall be due or payable on account of the exercise of, without limitation, any renewal, extension or expansion options arising under any Leases.

(q) The copies of the Leases delivered by Seller to City on or before the commencement of the Due Diligence Period contain all of the information pertaining to any rights of any parties to occupy the Property, including, without limitation, all information regarding any rent concessions, over-standard tenant improvement allowances or other inducements to lease. None of the tenants of the Property has indicated to Seller either orally or in writing its intent to terminate its respective Lease prior to expiration of the respective term of such Lease.

8.2 Indemnity

Seller, on behalf of itself and its successors and assigns, hereby agrees to indemnify, defend and hold harmless City, its Agents and their respective successors and assigns, from and against any and all liabilities, claims, demands, damages, liens, costs, penalties, losses and expenses, including, without limitation, reasonable attorneys' and consultants' fees, resulting from any misrepresentation or breach of warranty or breach of covenant made by Seller in this Agreement or in any document, certificate, or exhibit given or delivered to City pursuant to or in connection with this Agreement. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, cleanup, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material. The indemnification provisions of this Section shall survive beyond the Closing, or, if title is not transferred pursuant to this Agreement, beyond any termination of this Agreement.

9. RISK OF LOSS AND POSSESSION

9.1 Risk of Loss

If any of the Property is damaged or destroyed prior to the Closing Date, or if condemnation proceedings are commenced against any of the Property, then the rights and obligations of Seller and City hereunder shall be as follows:

(a) If such damage or destruction is fully covered by Seller's insurance except for the deductible amount thereunder, and the insurer agrees to timely pay for the entire cost of such repair, and such damage or destruction would cost less than the Purchase Price of Ten Million Dollars (\$10,000,000.00) (the "Threshold Damage Amount") to repair or restore, then this Agreement shall remain in full force and effect and City shall acquire the Property upon the terms and conditions set forth herein. In such event, City shall receive a credit against the Purchase Price equal to such deductible amount, and Seller shall assign to City at Closing all of Seller's right, title and interest in and to all proceeds of insurance on account of such damage or destruction (the "Insurance Proceeds") pursuant to an instrument satisfactory to City.

(b) If such damage or destruction is not fully covered by Seller's insurance, other than the deductible amount, and would cost less than the Threshold Damage Amount to repair or restore, then the transaction contemplated by this Agreement shall be consummated

with City receiving a credit against the Purchase Price at the Closing in an amount reasonably determined by Seller and City (after consultation with unaffiliated experts) to be the cost of repairing such damage or destruction.

(c) If the cost of such damage or destruction would equal or exceed the Threshold Damage Amount, then, City shall have the right, at its election, to terminate this Agreement in its entirety. City shall have thirty (30) days after Seller notifies City that an event described in this Subsection (c) 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 Subsection (c) by City's delivery of notice of termination to Seller, then City and Seller shall each be released from all obligations hereunder pertaining to that portion of the Property affected by such termination. If City elects not to terminate this Agreement, City shall receive a credit against the Purchase Price equal to such deductible amount, and Seller shall assign to City at Closing all of the Insurance Proceeds.

9.2 Insurance

Through the Closing Date, Seller shall maintain or cause to be maintained, at Seller's sole cost and expense, a policy or policies of property insurance in amounts equal to the full replacement value of the Improvements and the Personal Property, insuring against all insurable risks, including, without limitation, fire, vandalism, malicious mischief, lightning, windstorm, and other perils customarily covered by casualty insurance and the costs of demolition and debris removal. Seller shall furnish City with evidence of such insurance upon request by City.

9.3 Possession

Possession of the Property shall be delivered to City on the Closing Date.

10. MAINTENANCE; CONSENT TO NEW CONTRACTS

10.1 Maintenance of the Property by Seller

Between the date of Seller's execution of this Agreement and the Closing, Seller shall maintain the Property in good order, condition and repair, reasonable wear and tear excepted, shall perform all work required to be done by the landlord under the terms of any Lease, and shall make all repairs, maintenance and replacements of the Improvements and any Personal Property and otherwise operate the Property in the same manner as before the making of this Agreement, as if Seller were retaining the Property.

10.2 City's Consent to New Contracts Affecting the Property; Termination of Existing Contracts

After the date the Director of Property submits legislation for approval by City's Board of Supervisors of this Agreement, Seller shall not enter into any Lease or contract, or any amendment thereof, or permit any tenant of the Property to enter into any sublease, assignment or agreement pertaining to the Property, or waive any rights of Seller under any Lease or Assumed Contract, without in each instance obtaining City's prior written consent thereto which consent maybe withheld if the term extends beyond the Closing Date. City agrees that it shall not unreasonably withhold or delay any such consent for any lease which will expire 30 days prior to the Closing Date. Seller shall terminate prior to the Closing, at no cost or expense to City, any and all management agreements affecting the Property that City does not agree in writing prior to the Closing to assume.

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 deemed to have been given upon (i) hand delivery, against receipt, (ii) one (1) day after being deposited with a reliable overnight courier service, or (iii) two (2) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

City:

Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Re: **11th Street Open Space**
Facsimile No.: (415) 552-9216

with copy to:

Elizabeth A. Dietrich
Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Re: **11th Street Open Space**

Seller:

Robert Harms, President
Ares Commercial Properties
695 DeLong Avenue, Suite 260
Novato, CA 94945
Facsimile No.: (415) 899-1594

With a copy to:

Matthew Wertheim, Esq.
2135 Lombard Street
San Francisco, CA 94123
Facsimile No.: (415) 775-8955

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. For convenience of the parties, copies of notices may also be given by telefacsimile, to the telephone number listed above, or such other numbers as may be provided from time to time. However, neither party may give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

11.2 Brokers and Finders

Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, 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 herein. In the event that 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 hereto and their respective successors, heirs, administrators and assigns. City shall have the right, upon notice to Seller, to assign its right, title and interest in and to this Agreement to one (1) or more assignees at any time before the Closing Date.

11.4 Amendments

Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by City and Seller.

11.5 Continuation and Survival of Representations and Warranties

All representations and warranties by the respective parties contained herein 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 herein 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. All statements contained in any certificate or other instrument delivered at any time by or on behalf of Seller in conjunction with the transaction contemplated hereby shall constitute representations and warranties hereunder.

11.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

11.7 Merger of Prior Agreements

The parties intend that this Agreement (including all of the attached exhibits and schedules, which are incorporated into this Agreement by reference) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings including, without limitation, the Offer to Purchase between the parties hereto. 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, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

11.8 Parties and Their Agents; Approvals

The term "Seller" as used herein 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 herein, the term "Agents" when used with respect to either party shall include the agents, employees, officers, contractors and representatives of such party. All approvals, consents or other determinations permitted or required by City hereunder shall be

made by or through City's Director of Property unless otherwise provided herein, subject to applicable law.

11.9 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 herein. 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 herein. In addition, each party has been 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.

11.10 Attorneys' Fees

In the event that either party hereto fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). 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. The term "attorneys' fees" shall also include, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which such fees were incurred. The term "costs" shall mean the costs and expenses of counsel to the parties, which may include printing, duplicating and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

11.11 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 hereunder 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.

11.12 Conflicts of Interest

Through its execution of this Agreement, Seller acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provision, and agrees that if Seller becomes

aware of any such fact during the term of this Agreement, Seller shall immediately notify the City.

11.13 Notification of Limitations on Contributions

Through its execution of this Agreement, Seller acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Seller acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Seller further acknowledges that the prohibition on contributions applies to each Seller; each member of Seller's board of directors, and Seller's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Seller; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Seller. Additionally, Seller acknowledges that Seller must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Seller further agrees to provide to City the names of each person, entity or committee described above.

11.14 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 or agent 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 which may become due to Seller, its successors and assigns, or for any obligation of City under this Agreement.

11.15 Memorandum of Agreement

At any time on or after the Effective Date, the parties, upon City's request, shall execute and acknowledge a memorandum hereof, on the form attached hereto as Exhibit I, which will be recorded in the Official Records of the County in San Francisco, California.

11.16 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.

11.17 Effective Date

As used herein, the term "Effective Date" shall mean the date on which the City's Board of Supervisors and Mayor enact a resolution approving and authorizing this Agreement and the transactions contemplated hereby, following execution of this Agreement by both parties.

11.18 Severability

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the

application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law, except to the extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement.

11.19 Agreement Not to Market Prior to Effective Date

Seller agrees that unless and until this Agreement terminates pursuant to its terms, Seller shall not negotiate with any other parties pertaining to the sale of the Property and shall not market the Property to third parties.

11.20 Acceptance of Agreement by Seller

This Agreement shall be null and void unless Seller accepts it and returns to City four (4) fully executed counterparts hereof on or before 5:00 p.m. San Francisco Time on March 20, 2017.

11.21 Cooperative Drafting.

This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, 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 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, AND THIS AGREEMENT SHALL BE NULL AND VOID IF CITY'S BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT, IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH LEGISLATION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

11.22 Original Agreement.

City and Seller acknowledge and agree that this Agreement supercedes and replaces in its entirety that certain Agreement of Purchase and Sale for Real Estate between Seller and City dated as of June 10, 2016 regarding the purchase of the Property for the purchase price of Ten Million Dollars (\$10,000,000) (the "Original Agreement"). The Original Agreement was executed by Seller and conditionally approved by City's Recreation and Park Commission, but was not approved by City's Board of Supervisors and was not executed by City. City and Seller agree that the terms and conditions of the Original Agreement have no force or effect.

[SIGNATURES ON FOLLOWING PAGES]

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

SELLER:

ARES COMMERCIAL PROPERTIES,
a California corporation

Robert Harms
By: Robert Harms
Its: President

Date: 3. 14. 17

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
Elizabeth A. Dietrich
Deputy City Attorney

Title Company agrees to act as escrow holder in accordance with the terms of this Agreement and to execute the Designation Agreement (attached hereto as Exhibit I) and act as the Reporting Person (as such term is defined in the Designation Agreement). Title Company's failure to execute below shall not invalidate the Agreement between City and Seller.

TITLE COMPANY:

STEWART TITLE GUARANTY COMPANY

By: _____
Its: _____

Date: _____

EXHIBIT A

REAL PROPERTY DESCRIPTION

All that certain real property located in the County of San Francisco, State of California,
described as follows:

[LEGAL DESCRIPTION TO COME FROM PRELIMINARY REPORT]

EXHIBIT B

REAL PROPERTY DETAILS

[TO COME FROM SELLER]

EXHIBIT C

GRANT 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 (CA Govt. Code § 27383)
and Documentary Transfer Tax (CA Rev. & Tax Code
§ 11922 and S.F. Bus. & Tax Reg. Code § 1105)

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

GRANT DEED

(Assessor's Parcel No. _____)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Ares Commercial Properties, a California corporation, hereby grants to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the real property located in the City and County of San Francisco, State of California, described on Exhibit A attached hereto and made a part hereof (the "Property").

TOGETHER WITH any and all rights, privileges and easements incidental or appurtenant to the Property, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Property, as well as any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Property, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land and all of Grantor's right, title and interest in and to any and all roads and alleys adjoining or servicing the Property.

[SIGNATURES ON FOLLOWING PAGE]

Executed as of this _____ day of _____, 20__.

ARES COMMERCIAL PROPERTIES,
a California corporation

By: Robert Harms
Its: President

Date: _____

State of California)
) ss.
County of San Francisco)

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)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant Deed to the City and County of San Francisco, a municipal corporation, 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 D

BILL OF SALE

For good and valuable consideration the receipt of which is hereby acknowledged, Ares Commercial Properties, a California corporation ("Seller"), does hereby sell, transfer and convey to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Buyer"), all personal property owned by Seller and located on or in or used in connection with the Land and Improvements (as such terms are defined in that certain Agreement of Purchase and Sale of Real Estate dated as of _____, 20____, between Seller and Buyer (or Buyer's predecessor in interest), including, without limitation, those items described in Schedule 1 attached hereto.

Seller does hereby represent to Buyer that Seller is the lawful owner of such personal property, that such personal property is free and clear of all encumbrances, and that Seller has good right to sell the same as aforesaid and will warrant and defend the title thereto unto Buyer, its successors and assigns, against the claims and demands of all persons whomsoever.

DATED this _____ day of _____, 20____.

SELLER:

ARES COMMERCIAL PROPERTIES,
a California corporation

By: Robert Harms
Its: President

Date: _____

EXHIBIT E

ASSIGNMENT OF LEASES

THIS ASSIGNMENT is made and entered into as of this ____ day of _____, 20____, by and between Ares Commercial Properties, a California corporation ("Assignor"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Assignee").

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, effective as of the Effective Date (as defined below), Assignor hereby assigns and transfers to Assignee all of Assignor's right, title, claim and interest in and under certain leases executed with respect to that certain real property commonly known as _____ (the "Property") as more fully described in Schedule 1 attached hereto (collectively, the "Leases").

ASSIGNOR AND ASSIGNEE FURTHER HEREBY AGREE AND COVENANT AS FOLLOWS:

1. Assignor represents and warrants that as of the date of this Assignment and the Effective Date the attached Schedule 1 includes all of the Leases and occupancy agreements affecting any of the Property. As of the date hereof and the Effective Date, there are no assignments of or agreements to assign the Leases to any other party.
2. Assignor hereby agrees to indemnify Assignee against and hold Assignee harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), originating prior to the Effective Date (as defined below) and arising out of the landlord's obligations under the Leases.
3. Except as otherwise set forth in the Purchase Agreement (as defined below), effective as of the Effective Date (as defined below), Assignee hereby assumes all of the landlord's obligations under the Leases and agrees to indemnify Assignor against and hold Assignor harmless from any and all costs, liabilities, losses, damages or expenses (including, without limitation, reasonable attorneys' fees), originating on or subsequent to the Effective Date (as defined below) and arising out of the landlord's obligations under the Leases.
4. Any rental and other payments under the Leases shall be prorated between the parties as provided in the Purchase Agreement between Assignor, as Seller, and Assignee, as City, dated as of _____ (the "Purchase Agreement").
5. In the event of any litigation between Assignor and Assignee arising out of this Assignment, the losing party shall pay the prevailing party's costs of litigation, including, without limitation, reasonable attorneys' fees and costs.
6. This Assignment shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.
7. This Assignment shall be governed by and construed in accordance with the laws of the State of California.
8. For purposes of this Assignment, the "Effective Date" shall be the date of the Closing (as defined in the Purchase Agreement).

9. This Assignment 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.

[SIGNATURES ON FOLLOWING PAGE]

Assignor and Assignee have executed this Assignment as of the day and year first written above.

ASSIGNOR:

ARES COMMERCIAL PROPERTIES,
a California corporation

By: Robert Harms
Its: President

Date: _____

ASSIGNEE:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____
[DEPUTY'S NAME]
Deputy City Attorney

SCHEDULE 1

EXHIBIT E ASSIGNMENT OF LEASES

1. Standard Industrial/Commercial Single-Tenant Lease – Gross
Dated October 28, 2005
Tenant: Adventure Ambassadors, a California corporation
Premises: 964 Natoma Street, San Francisco
Term: through June 30, 2018
Amendments: First Amendment to Lease dated as of December 3, 2008; Second Amendment to Lease dated as of June 25, 2009; Third Amendment to Lease dated as of May 3, 2010; Fourth Amendment to Lease dated as of April 16, 2012; and Fifth Amendment to Lease dated as of February 23, 2015

2. Standard Industrial/Commercial Single-Tenant Lease – Gross
Dated September 24, 1991
Tenant: Hinshaw Supply Company of California, Inc.
Premises: 145-147 Eleventh Street, San Francisco
Term: month-to-month
Lease Addenda: (1) dated September 24, 1991; (2) dated September 4, 1996; (3) dated September 20, 2006; (4) dated September 26, 2011; and (5) dated October 4, 2011

3. Standard Industrial/Commercial Single-Tenant Lease – Gross
Dated September 19, 2016
Tenant: Dixon and Moe LLC, a California limited liability company
Premises: 165 11th Street, San Francisco
Term: through September 30, 2019
Lease Addenda: (1) dated September 19, 2016

EXHIBIT F

TENANT'S ESTOPPEL CERTIFICATE

DATE: _____

TENANT: _____

PREMISES: _____

LEASE DATE: _____

COMMENCEMENT DATE: _____

EXPIRATION DATE: _____

TERM IN MONTHS: _____

DATE RENT AND OPERATING EXPENSE
PARKING: _____

PAYMENTS ARE DUE: _____

OPTIONS: Check if you have any of these
options or rights, and provide details in
Sections 5 or 9 below.

- _____ Extension Option
_____ Termination Option
_____ Expansion Option
_____ Purchase Option

CURRENT MONTHLY PAYMENTS: _____

BASE RENTAL: _____

TAXES: _____

OP. EXP. CAP: _____

_____ Check here if you have rental escalations and provide details in Section 6 below: _____

SECURITY DEPOSIT: _____

THE UNDERSIGNED, AS TENANT OF THE ABOVE REFERENCED PREMISES
("PREMISES") UNDER THE LEASE DATED AS OF THE ABOVE-REFERENCED LEASE
DATE, BETWEEN _____
("LANDLORD") AND TENANT, HEREBY CERTIFIES, REPRESENTS AND WARRANTS

TO THE CITY AND COUNTY OF SAN FRANCISCO ("CITY"), AND ITS ASSIGNEES, AS FOLLOWS:

1. Accuracy. All of the information specified above and elsewhere in this Certificate is accurate as of the date hereof.
2. Lease. The copy of the Lease attached hereto as Exhibit A is a true and correct copy of the Lease. The Lease is valid and in full force and effect. The Lease contains all of the understandings and agreements between Landlord and Tenant and has not been amended, supplemented or changed by letter agreement or otherwise, except as follows (if none, indicate so by writing "NONE" below):
3. Premises. The Premises consist of _____, and Tenant does not have any options to expand the Premises except as follows (if none, indicate so by writing "NONE" below):
4. Acceptance of Premises. Tenant has accepted possession of the Premises and is currently occupying the Premises. There are no unreimbursed expenses due Tenant including, but not limited to, capital expense reimbursements.
5. Lease Term. The term of the Lease commenced and will expire on the dates specified above, subject to the following options to renew or rights to terminate the Lease (if none, indicate so by writing "NONE" below):
6. Rental Escalations. The current monthly base rental specified above is subject to the following escalation adjustments (if none, indicate so by writing "NONE" below):
7. No Defaults/Claims. Neither Tenant nor Landlord under the Lease is in default under any terms of the Lease nor has any event occurred which with the passage of time (after notice, if any, required under the Lease) would become an event of default under the Lease. Tenant has no claims, counterclaims, defenses or setoffs against Landlord arising from the Lease, nor is Tenant entitled to any concession, rebate, allowance or free rent for any period after this certification. Tenant has no complaints or disputes with Landlord regarding the overall operation and maintenance of the property within which the Premises are located (the "Property"), or otherwise.
8. No Advance Payments. No rent has been paid in advance by Tenant except for the current month's rent.
9. No Purchase Rights. Tenant has no option to purchase, or right of first refusal to purchase, the Premises, the Property or any interest therein (if none, indicate so by writing "NONE" below):
10. Notification by Tenant. From the date of this Certificate and continuing until, Tenant agrees to notify City immediately of the occurrence of any event or the discovery of any fact that would make any representation contained in this Certificate inaccurate as of the date hereof or as of any future date.
11. No Sublease/Assignment. Tenant has not entered into any sublease, assignment or any other agreement transferring any of its interest in the Lease or the Premises.
12. No Notice. Tenant has not received notice of any assignment, hypothecation, mortgage, or pledge of Landlord's interest in the Lease or the rents or other payments payable thereunder, except those listed below (if none, indicate so by writing "NONE" below):

13. Hazardous Materials. Tenant has not used, treated, stored, disposed of or released any Hazardous Materials on or about the Premises or the Property. Tenant does not have any permits, registrations or identification numbers issued by the United States Environmental Protection Agency or by any state, county, municipal or administrative agencies with respect to its operation on the Premises, except for any stated below, and except as stated below no such governmental permits, registrations or identification numbers are required with respect to Tenant's operations on the Premises. For the purposes hereof, the term "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. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25316 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; and petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids, and "source," "special nuclear" and "by-product" material as defined in the Atomic Energy Act of 1985, 42 U.S.C. Section 3011 et seq.

14. Reliance. Tenant recognizes and acknowledges it is making these representations to City with the intent that City, and any of its assigns, will fully rely on Tenant's representations.

15. Binding. The provisions hereof shall be binding upon and inure to the benefit of the successors, assigns, personal representatives and heirs of Tenant and City.

16. Due Execution and Authorization. The undersigned, and the person(s) executing this Certificate on behalf of the undersigned, represent and warrant that they are duly authorized to execute this Certificate on behalf of Tenant and to bind Tenant hereto.

EXECUTED BY TENANT ON THE DATE FIRST WRITTEN ABOVE.

By:

[NAME]

[TITLE]

By:

[NAME]

[TITLE]

EXHIBIT G

**CERTIFICATE OF TRANSFEROR
OTHER THAN AN INDIVIDUAL
(FIRPTA Affidavit)**

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the transferee of certain real property located in the City and County of San Francisco, California, that withholding of tax is not required upon the disposition of such U.S. real property interest by Ares Commercial Properties, Inc., a California Corporation ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor's U.S. employer identification number is 94-1224708 and
3. Transferor's office address is 695 Delong Avenue, Suite 260, Novato, CA 94945.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated: _____, 20__.

On behalf of:

ARES COMMERCIAL PROPERTIES,
a California corporation

By: Robert Harms
Its: President

EXHIBIT H

DESIGNATION AGREEMENT

This DESIGNATION AGREEMENT (the "Agreement") dated as of _____, 20____, is by and between Ares Commercial Properties, a California corporation ("Seller"), the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City"), and STEWART TITLE GUARANTY COMPANY ("Title Company").

A. Pursuant to that certain Purchase Agreement entered into by and between Seller and City, dated _____, 20____ (the "Purchase Agreement"), Seller has agreed to sell to City, and City has agreed to purchase from Seller, certain real property located in City and County of San Francisco, California, more particularly described in Exhibit A attached hereto (the "Property"). The purchase and sale of the Property is sometimes hereinbelow referred to below as the "Transaction").

B. Section 6045(e) of the United States Internal Revenue Code of 1986 and the regulations promulgated thereunder (collectively, the "Reporting Requirements") require an information return to be made to the United States Internal Revenue Service, and a statement to be furnished to Seller, in connection with the Transaction.

C. Pursuant to Subsection 2(b)(i) of the Purchase Agreement, an escrow has been opened with Title Company, Escrow No. _____, through which the Transaction will be or is being accomplished. Title Company is either (i) the person responsible for closing the Transaction (as described in the Reporting Requirements) or (ii) the disbursing title or escrow company that is most significant in terms of gross proceeds disbursed in connection with the Transaction (as described in the Reporting Requirements).

D. Seller, City and Title Company desire to designate Title Company as the "Reporting Person" (as defined in the "Reporting Requirements") with respect to the Transactions.

ACCORDINGLY, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Seller, City and Title Company agree as follows:

1. Title Company is hereby designated as the Reporting Person for the Transaction. Title Company shall perform all duties that are required by the Reporting Requirements to be performed by the Reporting Person for the Transaction.
2. Seller and City shall furnish to Title Company, in a timely manner, any information requested by Title Company and necessary for Title Company to perform its duties as Reporting Person for the transaction.
3. Title Company hereby requests Seller to furnish to Title Company Seller's correct taxpayer identification number. Seller acknowledges that any failure by Seller to provide Title Company with Seller's correct taxpayer identification number may subject Seller to civil or criminal penalties imposed by law. Accordingly, Seller hereby certifies to Title Company, under penalties of perjury, that Seller's correct taxpayer identification number is 94-1224708.
4. The names and addresses of the parties hereto are as follows:

SELLER:

Attn: _____
Facsimile No.: () _____

CITY:

Director of Property
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Facsimile No.: (415) 552-9216

TITLE COMPANY:

Attn: _____
Facsimile No.: () _____

5. Each of the parties hereto shall retain this Agreement for a period of four (4) years following the calendar year during which the date of closing of the Transaction occurs.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date and year first above written.

SELLER:

ARES COMMERCIAL PROPERTIES,
a California corporation

By: _____
Robert Harms
Its: President

Date: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

Date: _____

Title Company:

STEWART TITLE GUARANTY COMPANY

Date: _____

By: _____

Its: _____

EXHIBIT I

MEMORANDUM OF AGREEMENT

RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO:

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

The undersigned hereby declares this instrument to be exempt from Recording Fees (CA Govt. Code § 27383) and Documentary Transfer Tax (CA Rev. & Tax Code § 11922 and S.F. Bus. & Tax Reg. Code § 1105)

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

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT dated as of _____, 20____, is by and between Ares Commercial Properties, a California corporation ("Seller"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City").

1. Seller is the owner of certain real property located in the City and County of San Francisco, California, commonly known as _____, more particularly described in Exhibit A attached to and incorporated by this reference in this Memorandum of Agreement (the "Real Property").
2. Seller and City have entered into that certain unrecorded Agreement for the Purchase and Sale of Real Estate dated as of _____, 20____ incorporated by this reference into this Memorandum (the "Agreement"), pursuant to which Seller agreed to sell, and City agreed to purchase, the Real Property upon all the terms and conditions set forth in the Agreement.
3. The purpose of this Memorandum of Agreement is to give notice of the Agreement and the respective rights and obligations of the parties thereunder, and all of the terms and conditions of the Agreement are incorporated herein by reference as if they were fully set forth herein.
4. This Memorandum of Agreement shall not be deemed to modify, alter or amend in any way the provisions of the Agreement. In the event any conflict exists between the terms of the Agreement and this instrument, the terms of the Agreement shall govern and determine for all purposes the relationship between Seller and City and their respective rights and duties.
5. This Memorandum of Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective legal representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum of Agreement as of the date first written above.

SELLER:

ARES COMMERCIAL PROPERTIES,
a California corporation

By: Robert Harms
Its: President

Date: _____

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
JOHN UPDIKE
Director of Property

Date: _____

[SIGNATURES ON FOLLOWING PAGE]

State of California)
) ss
County of San Francisco)

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)

State of California)
) ss
County of San Francisco)

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)

SCHEDULE 1

ENERGY DISCLOSURE DOCUMENTS

File #170422



SAN FRANCISCO PLANNING DEPARTMENT

DATE: June 13, 2017
 TO: San Francisco Board of Supervisors
 FROM: Mat Snyder, Eastern Neighborhoods Citizen Advisory Staff
 CC: Bruce Huie, CAC Chair, Keith Goldstein, CAC Vice-Chair,
 Stacy Bradley, Recreation and Parks
 RE: Motion on Acquisition of the 11th and Natoma site

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
 Information:
415.558.6377

On April 17, 2017, the Eastern Neighborhoods CAC staff heard a presentation on the proposed acquisition of a new park in Soma at 11th Street and Natoma Street. As you may know, one of the goals of the Eastern Neighborhoods Plan is to construct at least one new park in each of the five neighborhoods, and the creation of this park will further that goal. The CAC voted to support the proposed acquisition as follows:

MOTION NO. 2017-04-01
 ACTION: To support the acquisition of the property at 11th Street and Natoma for the purpose of creating a new park in Soma.
 MOTION: Levy SECOND: Bhakta
 AYES: Bass, Bhakta, Contreras, Goldstein, Huie, Levy, Marti, Murphy, Wertheim
 NOES: Boss
 ABSTAIN: [none]
 ABSENT: Bragg, Karnilowitz, Murphy, Ongoco

Please let me know if you have any questions.

[Type text]



SAN FRANCISCO PLANNING DEPARTMENT

General Plan Referral

Date: April 4, 2017

Case No. Case No. 2016-008708GPR – 964 Natoma Street (City Acquisition of Real Property for Open Space -- Recreation and Parks Department)

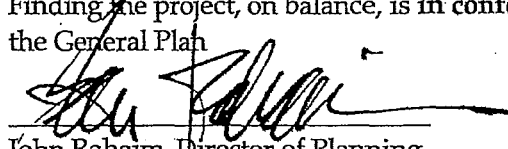
Block/Lot No.: Block 3510, Lots 035, 037, 039, 055, 056

Project Sponsor: John Updike, Director
San Francisco Real Estate Division
25 Van Ness Ave. Suite 400
San Francisco, CA 94102

Applicant: Josh Keene (contact)
San Francisco Real Estate Division

Staff Contact: Scott T. Edmondson, AICP (415) 558-6818
Scott.Edmondson@sfgov.org

Recommendation: Finding the project, on balance, is in conformity with the General Plan

Recommended By: 
John Raham, Director of Planning

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The Project is the City's proposed purchase of five parcels (total area of 19,500 sq.ft.) located between Minna and Natoma Streets and bordered by 11th Street on Block 3510, with addresses and lots as follows: 145-147 11th St (055 & 056), 165-167 11th St (037), 964 Natoma St (035), 973 Minna St (039) (see Attachment 1, Project Parcel Map). If the Project is approved, the Recreation and Parks Department would let existing commercial leases expire. The Department anticipates developing these parcels into open space and a public park at some point in the future after the leases expire. This would require demolition of four buildings with a Planning Department "A"-rated historical resources. The future demolition would require CEQA review and compliance. The proposed Project would add a public park to District 6 and to an area in need of parks (see General Plan, Parks & Open Space Element, Map 7, p 24, and the discussion of Policy 2.1, below, in the next section).

Current uses on the Project site are as follows: refrigerator sales, wholesale, nursery (floral), office, and warehouse. Existing zoning on the five parcels is Residential Enclave-Mixed (RED-MX) or WSOMA Mixed Use-General (WMUG). Both Land Use Districts allow the anticipated public park and open space use by right and allow the change of existing PDR uses to other uses allowed within the Districts. Only PDR and SALI Land Use Districts prevent or limit the change of existing PDR uses to other uses. No other guidelines, moratoriums, or other regulatory mechanisms that control the change of PDR land use apply to the Project site.

The submittal is for a General Plan Referral to recommend whether the Project is in conformity with the General Plan, pursuant to Section 4.105 of the Charter, and Section 2A.52 and 2A.53 of the Administrative Code.

ENVIRONMENTAL REVIEW

Per CEQA Guidelines Section 15060(c)(2), the proposed acquisition of the 11th Street Properties is not considered a project as defined by CEQA, since it is an activity that will not result in a direct or reasonably foreseeable indirect physical change on the environment.

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

The Project is the City's proposed acquisition and/or lease of property containing an existing structure with office, warehouse space and off-street parking areas for use by the Department of Technology. 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:

RECREATION AND OPEN SPACE ELEMENT

POLICY 2.1

Prioritize acquisition of open space in high needs areas

Priority for acquisition of new space to address open space inequities should be given to high need areas, defined as places where there is low access to open space (illustrated in Map 4: Walkability), a conglomeration of high density, high percentages of children, youth, seniors, and low income households (illustrated in Map 5: Population Density, Household income, Concentration of Children and Youth, Concentration of Seniors), and in which the most growth is projected to occur between now and 2040 (illustrated in Map 6: Areas of Potential Additional Population Growth, 2040).

The proposed Project directly meets Policy 2.1. The project site is in an area of high need (see Map 6, p. 24, of the Element referenced in the preceding paragraph) and the southeast quadrant of the City will receive a majority of the projected growth.

WESTERN SOMA AREA PLAN

Open Space

OBJECTIVE 7.1: Identify New Park Site Opportunities

POLICY 7.1.1: Identify opportunities to create new public parks, recreation facilities and open spaces and provide at least one new public park or open space serving Western SoMa.

The proposed Project directly meets Objective 7.1 and Policy 7.1.1. of the West SoMa Element. The project site is in an area of high need (see Map 6, p. 24, of the Element referenced in the preceding paragraph) and the southeast quadrant of the City will receive a majority of the projected growth.

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, demolition and replacement of the Chinese Recreation Center, 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:

The proposed 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.

Acquisition under the Project would allow current commercial tenants to remain until their leases expire. Anticipated development of the park at a future time—unknown and unplanned now—would eliminate one region-serving refrigerator retails sales business but would not be expected to adversely affect neighborhood serving retail in the area.

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. Current uses are not residential.

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. There would be no eventual demolition of housing as current uses are not residential, but commercial.

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. The park would be a neighborhood serving park. It would not be expected to generate substantial commuter traffic.

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 change existing commercial uses on the five parcels to park and open space use, but this would not be expected to substantially affect the existing economic base in this area.

6. That the City achieves 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. It could improve the City's ability to respond to injuries caused by earthquakes and other emergencies because the park could be used for temporary shelter in the aftermath of an emergency event.

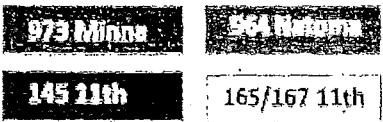
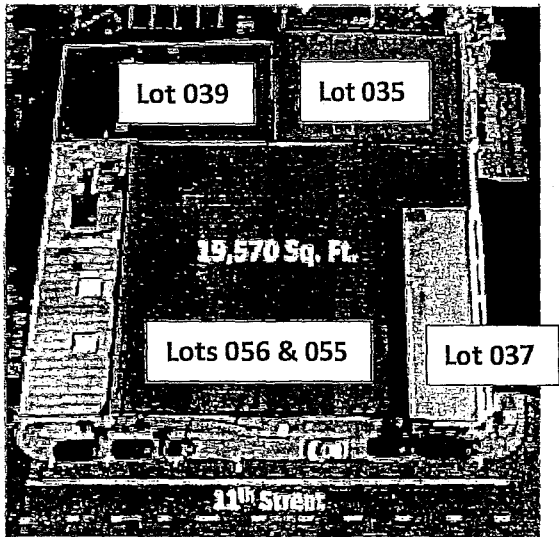
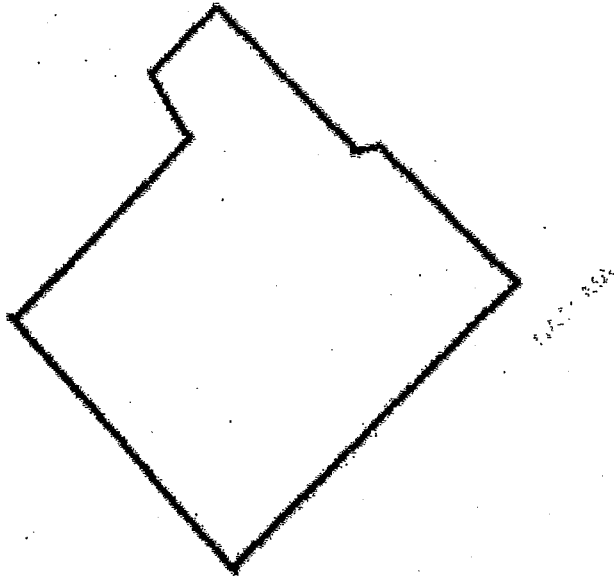
7. That landmarks and historic buildings be preserved.
The property acquisition would not adversely affect the "A"-rated historical buildings on the project site.

8. That our parks and open space and their access to sunlight and vistas be protected from development.
The Project would have no adverse effect on parks and open space or their access to sunlight and vista.

RECOMMENDATION:	Finding the Project, on balance, in-conformity with the General Plan
------------------------	---

cc: Josh Keene, Real Estate

ATTACHMENT 1 – Project Parcel Map



CITY AND COUNTY OF SAN FRANCISCO
Recreation and Park Commission
Resolution Number 1608-006

PURCHASE OF REAL PROPERTY

WHEREAS, the City is considering purchasing certain real property located at 145 11th Street, 147 11th Street, 165 11th Street, 973 Minna Street, and 964 Natoma Street, comprised of five parcels (Assessor Blocks and Lots: 3510/037, 3510/055, 3510/056, 3510/039, and 3510/035) having a total area of 19,570 square feet site (hereinafter referred to as the "Site"); and

WHEREAS, the City wishes to acquire the Site for future development of the property into a neighborhood park by the Recreation and Park Department ("RPD"); and

WHEREAS, RPD has provided the Recreation and Park Commission oral and written reports regarding the proposed Site acquisition, and has explained in those reports that the proposed acquisition will further RPD's mission, as articulated in the Strategic Plan Objective 1.1 ("Develop more open space to address population growth in high needs areas and emerging neighborhoods"), by providing enriching recreational activities, beautiful parks, and preserving the environment for the well-being of San Francisco's diverse community; and

WHEREAS, in 2013, the District 6 Open Space Task Force identified areas desirable for the acquisition of new open space based on the Recreation and Open Space Element High Needs Areas mapping, based on factors such as population density, concentration of children and/or seniors, concentration of lower income households, anticipated growth, and existing parks relative to other areas; and

WHEREAS, The City obtained an appraisal which valued the Site at \$____ Million dollars as determined by an appraisal conducted by an objective, MAI and State-certified consultant appraiser, based on highest and best use of the property; and

WHEREAS, The Director of Property has determined that the sales price of \$10,000,000 is reasonable and representative of fair market value; and

WHEREAS, RPD intends to use monies from the Open Space Acquisition Fund to fund the acquisition of the Site; and

WHEREAS, On June 22, 2016, the Planning Department determined that the acquisition of the Site would not be subject to the California Environmental Quality Act Public Resources Code Section 21000 *et seq.* (CEQA), pursuant to CEQA Guidelines Section 15060(c)(2), which provides that an activity is not subject to CEQA if the activity will not result in a “direct or reasonably foreseeable indirect physical change on the environment;” and

WHEREAS, There are adequate funds available in the Open Space Acquisition Fund to fund the purchase of the Site; and

WHEREAS, to the extent the development of a park is found to be feasible and desirable, a specific park project is designed and proposed, and any required review under the CEQA is completed, the Commission believes use of Open Space Acquisition Funds would be appropriate for the purchase of the Site for a future park; and

WHEREAS, The Purchase and Sale Agreement to acquire the Site requires Board of Supervisors approval under Chapter 23 of the Administrative Code; now therefore be it

RESOLVED, The Recreation and Park Commission hereby adopts the RPD reports identifying the proposed acquisition of the Site as an update to the Five-Year Capital Plan previously adopted by the Commission in June 2014; and

FURTHER RESOLVED, The Recreation and Park Commission hereby recommends that the Board of Supervisors approve the purchase of the property located at 145 11th Street, 147 11th Street, 165 11th Street, 973 Minna Street, and 964 Natoma Street Assessor Blocks and Lots: 3510/037, 3510/055, 3510/056 3510/039, and 3510/035 using monies from the Park, Recreation and Open Space Fund.

Adopted by the following vote:

Ayes	6
Noes	0
Absent	0

I hereby certify that the foregoing resolution was adopted at the August 18, 2016 meeting of the Recreation and Park Commission.

Margaret A. McArthur, Commission Liaison



SIERRA CLUB

SAN FRANCISCO BAY

Serving Alameda, Contra Costa, Marin and San Francisco counties

San Francisco Group
c/o 1474 Sacramento St., #305
San Francisco, CA 94109

San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

June 1, 2017

Re: Support Real Property Acquisition Resolution - 145-165-11th Street, 973 Minna Street, and 964 Natoma Street - Recreation and Parks Department - \$9,725,000 (BOS File 170422)

Dear Members of the Board of Supervisors,

As an organization that has long fought to acquire, improve and maintain public lands, the Sierra Club supports the proposal to acquire five parcels at Natoma and 11th Streets for the development of a new park by the Recreation and Parks Department. The South of Market (SoMa) parcels provide an opportunity for much-needed open space in a Supervisorial district with the least amount of open space citywide and a neighborhood slated for development and a growing residential population.

The SoMa neighborhood currently has few opportunities both for children to experience nature and for adults to find respite in a green and leafy environment. Therefore, if the acquisition is approved, we encourage the Recreation and Parks Department to design the new park with grass rather than artificial materials and with trees and shrubs to provide habitat for wildlife as well as the opportunity for children to experience living nature.

We also recommend that the Planning Department and Commission fully implement the Sunlight Ordinance (Proposition K) to ensure that future developments around the new park do not produce adverse shadows on the park.



SIERRA CLUB

SAN FRANCISCO BAY

serving Alameda, Contra Costa, Marin and San Francisco counties

We urge the Budget and Finance Committee and the full Board of Supervisors to support the acquisition of parcels 145-165-11th Street, 973 Minna Street, and 964 Natoma Street.

Sincerely,

Becky Evans

Executive Committee Chair, Sierra Club San Francisco Group

Cc: Stacy Radine Bradley

Wong, Linda (BOS)

From: Board of Supervisors, (BOS)
Sent: Monday, June 05, 2017 12:40 PM
To: BOS-Supervisors; Wong, Linda (BOS)
Subject: FW: Sierra Club Letter of Support for Natoma & 11th Park Acquisition (File No. 170422)
Attachments: Complete_Letter_Head-8.doc

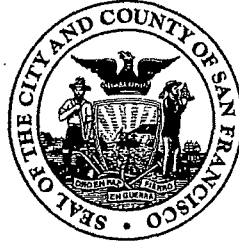
From: Rebecca Evans [mailto:rebecae@earthlink.net]
Sent: Thursday, June 01, 2017 4:49 PM
To: Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>
Cc: Bradley, Stacy (REC) <stacy.bradley@sfgov.org>
Subject: Sierra Club Letter of Support for Natoma & 11th Park Acquisition

Attached please find the Sierra Club Letter of Support for Natoma and 11th Park Acquisition.

Thank you,

Rebecca Evans
Chair
San Francisco Group

President, District 5
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 240
San Francisco 94102-4689
Tel. No. 554-7630
Fax No. 554-7634
TDD/TTY No. 544-5227

BOS-11 orig: LU
BPF Clerk, Deputies,
Dep. City Atty, COB
Mayor's Office

London Breed

PRESIDENTIAL ACTION

Date: 4/20/2017
To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____
(Primary Sponsor)
Title. _____

Transferring (Board Rule No 3.3)

File No. 170422 Kim
(Primary Sponsor)

Title. [Real Property Acquisition - 145-165-11th Street, 973 Minna Street, and
964 Natoma Street - Recreation and Parks Department - \$9,725,000]

From: Land Use & Transportation Committee

To: Budget & Finance Sub Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2017 APR 20 PM 3:28

London Breed, President
Board of Supervisors

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 JUN -6 PM 7
Title stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Supervisor Kim

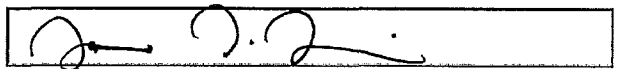
Subject:

Resolution approving and authorizing real property acquisition at 145-165-11th Street, 973 Minna Street and 964 Natoma Street

The text is listed:

Please see attached.

Signature of Sponsoring Supervisor:



For Clerk's Use Only

Introduction Form

By a Member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
CITY AND COUNTY OF SAN FRANCISCO

2017 APR 11 PM 3:46

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one).

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [redacted] inquires"
- 5. City Attorney request.
- 6. Call File No. [redacted] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [redacted]
- 9. Reactivate File No. [redacted]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [redacted]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

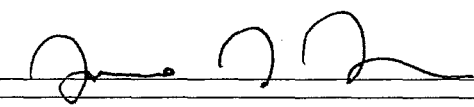
Supervisor Kim

Subject:

Acquisition of Real Property for \$9,725,000 - 145-165 11th Street, 973 Minna Street, and 964 Natoma Street, San Francisco

The text is listed below or attached:

Please see attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

FORM SFEC-126:
NOTIFICATION OF CONTRACT APPROVAL
 (S.F. Campaign and Governmental Conduct Code § 1.126)

City Elective Officer Information <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

Contractor Information <i>(Please print clearly.)</i>	
Name of contractor: Ares Commercial Properties, Inc.	
<i>Please list the names of (1) members of the contractor's board of directors; (2) the contractor's chief executive officer, chief financial officer and chief operating officer; (3) any person who has an ownership of 20 percent or more in the contractor; (4) any subcontractor listed in the bid or contract; and (5) any political committee sponsored or controlled by the contractor. Use additional pages as necessary.</i>	
1. Board of Directors:	Robert W. Harms William R. Harms Lilo Harms Elisa Fox Donald Sweet
2. Executives:	Robert W. Harms President William R. Harms - Secretary Treasurer
3.	LILO E. HARMS, TRUSTEE, RICHARD E. HARMS BYPASS TRUST 16.65% LILO E. HARMS, TRUSTEE, RICHARD E. HARMS QTIP TRUST 17.48% R.W. & J.E. HARMS TRUST 17.04% R W HARMS CHILD TRUST 12.52%
4.	None
5.	None
Contractor address: 695 De Long Ave. Suite 260; Novato, CA 94945	
Date that contract was approved:	Amount of contract: \$9,725,000.00
Describe the nature of the contract that was approved: Purchase of improved real property	
Comments: None	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form (Mayor Edwin M. Lee)

a board on which the City elective officer(s) serves _____

Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

Filer Information <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

Signature of City Elective Officer (if submitted by City elective officer)

Date Signed

Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

Date Signed

