

File No. 170052

Committee Item No. 1

Board Item No. 9

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date February 16, 2017

Board of Supervisors Meeting

Date February 28, 2017

Cmte Board

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

OTHER

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<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Public Utilities Commission Resolution</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Power Plant Presentation</u>
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Completed by: Linda Wong

Date February 10, 2017

Completed by: Linda Wong

Date February 21, 2017

1 [Real Property Purchase and Sale Agreement - Sale of 401 and 403 Old Bernal Avenue,
2 Pleasanton, California - City of Pleasanton - \$4,200,000]

3 **Resolution approving and authorizing the execution of a Purchase and Sale Agreement**
4 **with the City of Pleasanton, for the conveyance by the City and County of San**
5 **Francisco, acting through the San Francisco Public Utilities Commission (SFPUC), to**
6 **the City of Pleasanton, consisting of approximately 3.18 acres of real property located**
7 **at 401 and 403 Old Bernal Avenue, Pleasanton, California for \$4,200,000; adopting**
8 **findings under the California Environmental Quality Act; adopting findings that the**
9 **conveyance is consistent with the General Plan, and the eight priority policies of**
10 **Planning Code, Section 101.1; and authorizing the Director of Property and/or the**
11 **SFPUC's General Manager to execute documents, make certain modifications, and take**
12 **certain actions in furtherance of this Resolution.**

13
14 WHEREAS, The City and County of San Francisco ("City"), under the jurisdiction of the
15 San Francisco Public Utilities Commission ("SFPUC"), owns certain real property located
16 at 401 and 403 Old Bernal Avenue in Pleasanton, California, also known as Alameda County
17 Assessor's Parcels Numbers 094-0157-005-17 and 094-0157-022-00, and also known as a
18 portion of SFPUC Parcel No. 69 (the "Property"); and

19 WHEREAS, The SFPUC Commission determined that the Property is no longer
20 required for SFPUC operational needs by Resolution No. 16-0263, dated December 13, 2016,
21 a copy of which is on file with the Clerk of the Board of Supervisors in File No. 170052; and

22 WHEREAS, Charter, Section 8B.121(a) grants the SFPUC Commission the exclusive
23 charge of the real property assets under the SFPUC Commission's jurisdiction; Charter,
24 Section 8B.121(e) provides that the SFPUC Commission may transfer real property interests
25 the SFPUC Commission declares to be surplus to the needs of any utility, and Charter,

1 Section 9.118(c) provides that any sale of real property owned by the City must be approved
2 in advance by the Board of Supervisors; and

3 WHEREAS, The SFPUC complied with reporting, notice and other requirements of the
4 California Surplus Property Statute (California Government Code, Sections 54220
5 through 54233) and the San Francisco Surplus Property Ordinance (Administrative Code,
6 Chapter 23A) with respect to the sale of the Property; and

7 WHEREAS, The SFPUC, through its real estate broker Colliers International CA, Inc.,
8 solicited bids from prospective buyers of the Property to be submitted between
9 October 12, 2016, and October 27, 2016; and

10 WHEREAS, The City of Pleasanton ("Pleasanton") offered to purchase the property
11 for \$4,200,000, which SFPUC staff have determined to be the highest and best responsible
12 offer to purchase the Property for \$4,200,000; and

13 WHEREAS, SFPUC staff, through consultation with the Director of Property and the
14 Office of the City Attorney, have negotiated a proposed Purchase and Sale Agreement with
15 Pleasanton ("Purchase and Sale Agreement"), a copy of which is on file with the Clerk of the
16 Board of Supervisors under File No. 170052, which is incorporated herein by this reference;
17 and

18 WHEREAS, Pleasanton's City Council approved the Purchase and Sale Agreement on
19 December 20, 2016; and

20 WHEREAS, The Director of the San Francisco Planning Department, by letter dated
21 November 6, 2016, found that the sale of the Property is consistent with the City's General
22 Plan, and with the eight priority policies of Planning Code, Section 101.1, and is not a project
23 under CEQA Guidelines, Sections 15060(c) and 15378, a copy of which is on file with the
24 Clerk of the Board of Supervisors under File No. 170052, and is incorporated herein by
25 reference; now, therefore, be it

1 RESOLVED, That the Board of Supervisors hereby finds that the sale of the Property is
2 not a project under CEQA Guidelines, Sections 15060(c) and 15378 and is consistent with the
3 City's General Plan, and the eight priority policies of Planning Code, Section 101.1 as set forth
4 in the letter from the Director of Planning, dated November 6, 2016; and, be it

5 FURTHER RESOLVED, That the City's Board of Supervisors, in accordance with the
6 recommendations of the SFPUC and the Director of Property, hereby approves the terms and
7 conditions of the Purchase and Sale Agreement for the sale of the Property to Pleasanton and
8 authorizes the Director of Property and/or the SFPUC's General Manager, in the name and on
9 behalf of the City, to execute the Purchase and Sale Agreement in substantially the form
10 presented to the Board and to take any and all steps (including, but not limited to, the
11 execution and delivery of any and all certificates, agreements, notices, consents, escrow
12 instructions, closing documents, and other instruments or documents) as the Director of
13 Property or SFPUC General Manager deems necessary or appropriate in order to
14 consummate the Purchase and Sale Agreement, or to otherwise effectuate the purpose and
15 intent of this resolution, such determination to be conclusively evidenced by the execution and
16 delivery by the Director of Property and/or SFPUC General Manager of any such documents;
17 and, be it

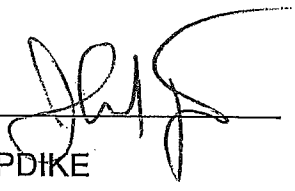
18 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the Director
19 of Property and/or the SFPUC General Manager, in the name and on behalf of the City, to
20 enter into any amendments or modifications to the Purchase and Sale Agreement and enter
21 into ancillary agreements (including the exhibits attached to the Purchase and Sale
22 Agreement) and any other documents or instruments in connection with the Purchase and
23 Sale Agreement that the Director of Property or SFPUC General Manager determines, in
24 consultation with the City Attorney, are in the City's best interest, do not materially decrease
25 the City's benefits or materially increase the City's liabilities or obligations in connection with

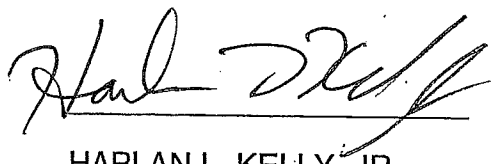
1 the proposed sale transaction, and are necessary and advisable to complete the proposed
2 sale transaction and effectuate the purpose and intent of this Resolution, such determination
3 to be conclusively evidenced by the execution and delivery by the Director of Property or
4 SFPUC General Manager of any such additions, amendments, or other modifications; and, be
5 it

6 FURTHER RESOLVED, That the Director of Property and/or the SFPUC General
7 Manager is hereby authorized and urged, in the name and on behalf of the City and County of
8 San Francisco, to take any and all steps (including, but not limited to, the execution and
9 delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing
10 documents and other instruments or documents) as the Director of Property deems necessary
11 or appropriate in order to consummate the conveyance of the Property pursuant to the
12 Purchase and Sale Agreement, or to otherwise effectuate the purpose and intent of this
13 Resolution, such determination to be conclusively evidenced by the execution and delivery by
14 the Director of Property and/or the SFPUC General Manager of any such documents; and, be
15 it

16 FURTHER RESOLVED, That the Director of Property shall provide the Clerk of the
17 Board of Supervisors a fully executed copy of the Purchase and Sale Agreement within thirty
18 (30) days of signature of same.

19
20 Recommended:

21
22 
23 JOHN UPDIKE
24 Director of Property

25 
HARLAN L. KELLY, JR.
General Manager of the SFPUC

Item 1 File 17-0052	Department: Public Utilities Commission (PUC)
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> The proposed resolution would approve the Purchase and Sale Agreement between the SFPUC and the City of Pleasanton for the City of Pleasanton to purchase 401 and 403 Old Bernal Avenue for \$4,200,000. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> The City and County of San Francisco, under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC)'s Water Enterprise, currently owns 3.18 acres of vacant property located at 401 and 403 Old Bernal Avenue in Pleasanton, California that has not been used by SFPUC since 1949. Because the Water Enterprise was facing large budget deficits in 2015 as the drought and subsequent drought-related water-use restrictions had decreased revenue, the SFPUC decided to sell certain underutilized property. SFPUC determined after consultation with senior management and the Public Utilities Commission to sell the property "as is" in order to expedite the sale. The property was valued at \$4,200,000 based on an independent appraisal. After receiving three bids for the properties, the SFPUC deemed the City of Pleasanton was the highest responsible bidder at \$4,200,000 and entered into negotiations. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> Net proceeds, less broker commission, to the SFPUC from the sale of the property to the City of Pleasanton are \$4,095,100. The City's Financial Policies, approved by the Board of Supervisors in 2011 and later codified in Administrative Code, Section 10.61, restrict the use of one-time revenues from the sale of land; such revenues may only be used for one-time uses. The sale proceeds of \$4,095,100 will be used to support revenue-funded capital programs. For 2017 to 2018, the SFPUC has planned to spend \$27,800,000 of water revenues for capital programs. 	
<p style="text-align: center;">Recommendation</p>	
<ul style="list-style-type: none"> Approve the proposed resolution. 	

MANDATE STATEMENT

City Charter Section 9.118(c) states that any sale of real property owned by the City and County of San Francisco is subject to Board of Supervisors approval.

BACKGROUND

The City and County of San Francisco, under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC)'s Water Enterprise, currently owns 3.18 acres of vacant property located at 401 and 403 Old Bernal Avenue in Pleasanton, California (hereafter referred to as "401 and 403 Old Bernal Avenue"). The City and County of San Francisco acquired the property in 1930 as part of a larger acquisition of the Spring Valley Water Works. The property was used to pump groundwater for sale, but has not been used for that purpose by SFPUC since 1949.

Decision to Sell 401 and 403 Old Bernal Avenue

According to Ms. Rosana Russell, SFPUC Real Estate Director, the Water Enterprise's policy is to keep most unused land in case of future needs, such as staging of pipeline projects. As 401 and 403 Old Bernal Avenue are in Alameda County, the SFPUC has been paying property taxes to Alameda County, as well as maintenance costs. Because the Water Enterprise was facing large budget deficits in 2015 as the drought and subsequent drought-related water-use restrictions had decreased revenue, the SFPUC decided to sell certain underutilized property in order to (a) eliminate property tax and maintenance costs, (b) provide a source of revenue to the Water Enterprise operations, and (c) take advantage of the current high value of the property market by selling six properties,¹ one of which is 401 and 403 Bernal Avenue. In a written statement dated December 18, 2015, the Assistant General Managers for each of the Water, Wastewater and Power Enterprises declared that 401 and 403 Old Bernal Avenue are not essential to the SFPUC's utility needs.

According to Ms. Russell, the SFPUC determined after consultation with senior management and the Public Utilities Commission to sell the property "as is" in order to expedite the sale.

The Associated Right of Way Services, Inc., an independent appraiser, in an appraisal report dated May 6, 2016 valued the property at \$4,158,000. In accordance with the Administrative Code, Chapter 23.2, CBRE, Inc. reviewed and confirmed the appraisal valuation on January 12, 2017.

Selection of Real Estate Brokers

On the SFPUC's behalf, the City's Real Estate Division selected Colliers International (Colliers) in 2015, based on a competitive process, to serve as broker for the sale of the six SFPUC properties.

¹ According to Ms. Russell, only one of the properties the SFPUC has decided to sell currently has a Purchase and Sale Agreement. That property is known as the Helen Drive lots in Millbrae, and a sale price has been negotiated for \$2,340,000 (File 17-0053 of this report).

Offering of 401 and 403 Old Bernal Avenue

In the first half of 2016, the Real Estate Division issued the required statutory notices to public entities² to offer to sell 401 and 403 Old Bernal Avenue, and at the same time, Colliers also advertised the properties to potential purchasers. Colliers solicited bids from prospective property buyers for two weeks, between October 12 and October 27, 2016. The SFPUC received bids from the City of Pleasanton, KFS Design, and Charter Properties. The bids were evaluated based on the (1) purchase price, (2) deposit amount, and (3) proof of funds, and (4) substantial adherence to the terms and conditions of the draft Purchase and Sale Agreement attached to the bid requests. Table 1 below shows a summary of the bids based on these metrics.

Table 1: Summary of Bids on 401 and 403 Old Bernal Avenue

Bidder	Purchase price	Deposit amount	Proof of funds	Request for additional terms and conditions
City of Pleasanton	\$4,200,000	\$100,000	Yes	Ability to request environmental report, grant deed instead of quit claim deed, and receive title insurance option
KFS Design	\$4,200,000	\$84,000	Partial*	The right to two extensions for due diligence phase to inspect property for 180 days total
Charter Properties	\$3,400,000	\$50,000	No	Initial deposit amount only after removal of contingencies

* KFS Design was able to show funds from the Bank of China, which still needed to be converted to US dollars.

While two of the bids (City of Pleasanton and KFS Design International) both bid \$4,200,000, KFS Design's bid had a lower deposit amount, the proof of funds was not provided in United States currency, and contained a request for an extended due diligence phase. Therefore, the SFPUC deemed the City of Pleasanton was the highest responsible bidder at \$4,200,000 and entered into negotiations.

On November 7, 2016, the SFPUC notified the City of Pleasanton that it was the selected bidder. Colliers, SFPUC Real Estate Services, and the City Attorney's Office worked with the City of Pleasanton and its counsel to finalize the Purchase and Sale Agreement, which requires a

² According to Ms. Russell, the Real Estate Division issued notices to public entities (as defined by California Government Code § 54222 and 50079) and housing sponsors (as defined by California Government Code § 5422(a) and 50074) who requested to be notified, both in accordance with the California Surplus Land Act.

quitclaim deed, rather than the requested grant deed for sale of this property.³ The Pleasanton City Council approved the Purchase and Sale Agreement on December 20, 2016.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the Purchase and Sale Agreement between the SFPUC and the City of Pleasanton for the City of Pleasanton to purchase 401 and 403 Old Bernal Avenue for \$4,200,000. Additionally, the proposed resolution:

1. Finds that the sale of 401 and 403 Old Bernal Avenue is not a project under California Environmental Quality Act (CEQA) Guidelines, Sections 15060(c) and 15378, and is consistent with the City's General Plan, and the eight priority policies of Planning Code, Section 101.1,
2. Approves the terms and conditions of the Purchase and Sale Agreement for the sale of 401 and 403 Old Bernal Avenue to the City of Pleasanton, and authorizes the SFPUC to take any and all steps to execute the Purchase and Sale Agreement in substantially the form presented to the Board,
3. Authorizes the SFPUC to enter into any amendments or modifications to the Purchase and Sale agreement and enter into ancillary agreements,
4. Authorizes the SFPUC to take any and all steps to ensure the transfer of 401 and 403 Old Bernal Avenue pursuant to the Purchase and Sale Agreement, and
5. Requires that the Director of Property to provide the Clerk of the Board of Supervisors a fully executed copy of the Purchase and Sale agreement within thirty (30) days of the Director providing his signature to the agreement.

CEQA Guidelines and City's General Plan

According to the CEQA Guidelines, Section 15378, only a project by the governmental agency is subject to CEQA. The SFPUC determined that the sale of the property does not result in a direct physical change in the environment, and therefore does not fall within the definition of a project. According to Ms. Russell, the City of Pleasanton will still have to undergo CEQA if they decide to alter the property in any way.

The proposed resolution would find that the sale of the 401 and 403 Old Bernal Avenue is consistent with the City's General Plan and eight priority policies of Planning Code, Section 101.1. According to the General Plan Referral, the proceeds from the proposed sale would further the objective of the SFPUC by contributing to miscellaneous revenue for the Water Enterprise. In addition, 401 and 403 Old Bernal Avenue are located outside of the City of San

³ A quitclaim deed, unlike a grant deed, contains no title covenant and thus offers no warranty as to the status of the property title.

Francisco and are currently vacant. The sale would therefore not have an impact on the eight priority policies.⁴

Terms and Conditions of the Purchase and Sale Agreement:

The SFPUC will sell 401 and 403 Old Bernal Avenue "as is," meaning that the City of Pleasanton is relying solely on its independent investigation of the property and not on any representations or warranties of any kind from the City of San Francisco. The City and County of San Francisco does not guarantee the conditions of the property, nor does it assume any responsibility for the compliance of the property with any statute, ordinance or regulation. The City of Pleasanton, as part of its agreement to purchase 401 and 403 Old Bernal Avenue "as is," waives any right to sue the City and County of San Francisco for damages.

The City of Pleasanton will have a contingency period until the earlier of either (a) ten business days after the Effective Date, or (b) sixty days after the agreement date (January 13, 2017) to review and approve the terms and conditions. The closing date of the sale will either be (a) the later of fifteen days after the expiration of the contingency period or the Effective Date, or (b) such earlier date upon which the City of Pleasanton and the City and County of San Francisco mutually agree.

FISCAL IMPACT

Net proceeds to the SFPUC from the sale of the property to the City of Pleasanton are \$4,095,100, as shown in Table 2 below.

Table2: Net Sale Proceeds to SFPUC for 401 and 403 Old Bernal Avenue

Proposed Sale Price	\$4,200,000
Independent Consideration ^a	100
Less Broker Commission ^b	(105,000)
Total Net Proceeds to City	\$4,095,100

^a The Purchase and Sale Agreement requires the City of Pleasanton to pay \$100 to SFPUC for independent consideration.

^b The agreement between the City and Colliers provides for Colliers to receive a 2.5 percent commission for real estate brokerage services.

As noted above, the SFPUC pays both property taxes and maintenance costs on 401 and 403 Old Bernal Avenue, resulting in savings to SFPUC from the sale of 401 and 403 Old Bernal Avenue of approximately \$5,184 per year after the sale.

The City's Financial Policies, approved by the Board of Supervisors in 2011 and later codified in Administrative Code, Section 10.61, restrict the use of one-time revenues from the sale of land;

⁴ 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.

such revenues may only be used for one-time uses. According to Mr. Carlos Jacobo, SFPUC Budget Director, the sale proceeds of \$4,095,100 will be used to support revenue-funded capital programs. For 2017 to 2018, the SFPUC has planned to spend \$27,800,000 of water revenues for capital programs.

RECOMMENDATION

Approve the proposed resolution.

AGREEMENT FOR SALE OF REAL ESTATE

by and between

CITY AND COUNTY OF SAN FRANCISCO,
as Seller

and

CITY OF PLEASANTON,
as Buyer

For the sale and purchase of

401 and 403 Old Bernal Avenue,
Pleasanton, California

December 22, 2016

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LIST OF EXHIBITS

EXHIBIT A	PROPERTY DESCRIPTION
EXHIBIT A-1	MAP OF THE PROPERTY
EXHIBIT B	QUITCLAIM DEED

AGREEMENT FOR SALE OF REAL ESTATE
(401 and 403 Old Bernal Avenue, Pleasanton, California)

THIS AGREEMENT FOR SALE OF REAL ESTATE (this "Agreement") dated as of 1/13/17 ("Agreement Date"), is made and entered into by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("City" or "Seller"), acting by and through its Public Utilities Commission ("SFPUC"), and the CITY OF PLEASANTON, a municipal corporation ("Buyer") City and Buyer are each a "Party" and are sometimes collectively referred to in this Agreement as the "Parties").

THIS AGREEMENT IS MADE WITH REFERENCE TO THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. City owns the Property located in the City of Pleasanton in Alameda County, California, described in Section 1 below. The Property consists of approximately 3.18 acres, or 138,597 square feet, and is located in downtown Pleasanton, across the street from the Pleasanton Public Library and in close proximity to the Pleasanton Police Department and Pleasanton Civic Center. The ACE Rail Pleasanton Station and train tracks are located adjacent to the Property.

B. The SFPUC has recommended sale of the Property (defined in Section 1) pursuant to Resolution No. 16-0263.

C. Buyer has submitted the highest and best responsible offer to purchase the Property.

D. Buyer desires to purchase the Property and City is willing to sell the Property, subject to approval by City's SFPUC, Board of Supervisors, and Mayor, on the terms and conditions set forth in this Agreement.

ACCORDINGLY, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Buyer agree as follows:

1. SALE AND PURCHASE

Subject to the terms, covenants and conditions set forth in this Agreement, City agrees to sell to Buyer, and Buyer agrees to purchase from City, City's interest in the unimproved real property located at 401 and 403 Old Bernal Avenue in the City of Pleasanton, Alameda County, State of California, and more particularly described in the attached Exhibit A (the "Property"), as shown generally on the attached Exhibit A-1.

2. PURCHASE PRICE

2.1 Purchase Price

The purchase price for the Property is Four Million Two Hundred Thousand Dollars (\$4,200,000.00) (the "Purchase Price"). Buyer shall pay the Purchase Price as follows:

(a) Within five (5) business days after the Agreement Date, Buyer shall deposit in escrow with Chicago Title Company, 455 Market Street, Suite 2100, San Francisco, CA 94105, Attention: Mary Pat Noeker (the "Title Company"), the sum of One Thousand Five Hundred Dollars (\$1,500.00) as an earnest money deposit (the "Initial Deposit"). The Initial Deposit shall be non-refundable and shall be applied by City to meet City's ordinary application fees relating to Buyer's due diligence activities on the Property in the event the Closing does not occur. Before the expiration of the Contingency Period as provided in Section 5.2 below, Buyer shall increase the Initial Deposit to One Hundred Thousand

Dollars (\$100,000.00) (the "**Deposit**") by depositing into escrow with the Title Company the additional amount of Ninety Eight Thousand Five Hundred Dollars (\$98,500.00). The Initial Deposit and Deposit shall be held in an interest-bearing account, and all interest thereon shall be deemed a part of the Deposit. At the Closing (as defined below) the Deposit shall be paid to City and credited against the Purchase Price.

(b) Buyer shall pay the balance of the Purchase Price, which is Four Million One Hundred Thousand Dollars (\$4,100,000.00), to City at the consummation of the purchase and sale contemplated by this Agreement (the "**Closing**").

All sums payable pursuant to this Agreement including, without limitation, the Deposit, shall be paid in immediately available funds of lawful money of the United States of America.

2.2 Independent Consideration

Concurrently with the execution of this Agreement, Buyer shall pay and deliver to City the sum of One Hundred Dollars (\$100.00) as separate and independent consideration ("**Independent Consideration**") for Seller's execution of this Agreement and agreement to sell the Property to Buyer on and subject to the terms and conditions of this Agreement, including, without limitation, the grant to Buyer of the right to conduct its due diligence investigation of the Property and the grant to Buyer of the right to terminate this Agreement prior to the Contingency Period in connection with such due diligence investigation. The Independent Consideration is not applicable to the Purchase Price and is non-refundable to Buyer in the event this Agreement terminates prior to the Closing.

3. TITLE

3.1 Conditions of Title

At the Closing City shall quitclaim its interest in and to the Property to Buyer by quitclaim deed in substantially the form of the attached Exhibit B (the "**Deed**"). Title to the Property shall be subject to (a) liens of local real estate taxes and assessments, (b) all existing exceptions and encumbrances, whether or not disclosed by a current preliminary title report or the public records or any other documents reviewed by Buyer pursuant to Section 5.1 below, and any other exceptions to title that would be disclosed by an accurate and thorough investigation, survey, or inspection of the Property, and (c) all items of which Buyer has actual or constructive notice or knowledge. All of the foregoing exceptions to title shall be referred to collectively as the "**Conditions of Title**." Without limiting the foregoing, Buyer acknowledges receipt of a preliminary report issued by the Title Company under Order No. FWAC-TO16001017-JM, dated September 26, 2016 covering the Property and approves all of the exceptions contained in such preliminary report.

3.2 Buyer's Responsibility for Title Insurance

Buyer understands and agrees that at and after Closing, the right, title and interest in the Property shall not exceed that vested in City, and City is under no obligation to furnish any policy of title insurance in connection with this transaction. Buyer recognizes that any fences or other physical monument of the Property's boundary lines may not correspond to the legal description of the Property. City shall not be responsible for any discrepancies in the parcel area or location of the property lines or any other matters that an accurate survey or inspection might reveal. It is Buyer's sole responsibility to obtain a survey from an independent surveyor and a policy of title insurance from a title company, if desired.

4. "AS-IS" PURCHASE; RELEASE OF CITY

4.1 Due Diligence and Time for Satisfaction of Conditions

Buyer has been given or will be given before the end of the Contingency Period (as defined in Section 5.2), a full opportunity to investigate the Property, either independently or through agents of Buyer'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 Buyer deems fit, as well as the suitability of the Property for Buyer's intended uses. Buyer and its Agents may commence due diligence investigations on the Property on or after the date Buyer and City enter into a permit to enter relating to the Property in form and substance satisfactory to City.

4.2 Buyer's Independent Investigation

Buyer represents and warrants to City that Buyer has performed, or will perform during the Contingency Period, a diligent and thorough inspection and investigation of each and every aspect of the Property, either independently or through agents of Buyer's choosing, including, without limitation, the following matters (collectively, the "Property Conditions"):

- (a) All matters relating to title including, without limitation, the existence, quality, nature and adequacy of City's interest in the Property and the existence of physically open and legally sufficient access to the Property.
- (b) The zoning and other legal status of the Property, including, without limitation, the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances and private or public covenants, conditions and restrictions, and all governmental and other legal requirements such as taxes, assessments, use permit requirements and building and fire codes.
- (c) The quality, nature, adequacy and physical condition of the Property, including, but not limited to, landscaping, and any electrical, mechanical, plumbing, sewage and utility systems, facilities and appliance, the presence or absence of any physical encroachments placed on, under, or across the Property, and all other physical and functional aspects of the Property.
- (d) The quality, nature, adequacy, and physical, geological and environmental condition of the Property (including soils and any groundwater), and the presence or absence of any Hazardous Materials in, on, under or about the Property or any other real property in the vicinity of the Property. As used in this Agreement, "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is now or hereafter 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.
- (e) The suitability of the Property for Buyer's intended uses.
- (f) The economics and development potential, if any, of the Property.
- (g) All other matters of material significance affecting the Property.

4.3 Property Disclosures

California law requires sellers to disclose to buyers the presence or potential presence of certain Hazardous Materials. Accordingly, Buyer is hereby advised that occupation of the Property may lead to exposure to Hazardous Materials such as, but not limited to, gasoline,

diesel and other vehicle fluids, vehicle exhaust, office maintenance fluids, tobacco smoke, methane and building materials containing chemicals, such as formaldehyde. By execution of this Agreement, Buyer acknowledges that the notices and warnings set forth above satisfy the requirements of California Health and Safety Code Section 25359.7 and related statutes.

4.4 Entry and Indemnity

Within five (5) business days after the Agreement Date, City shall provide Buyer, without representation or warranty of any kind whatsoever, with any reports, studies and other related information in its possession that are known to Rosanna Russell, Director of Real Estate Services Division of the SFPUC, and that reasonably relate to the Property, but excluding any of City's internal memoranda or reports, any privileged or confidential information, and City's appraisals of the Property. During the Contingency Period, Buyer may conduct such due diligence activities, inspections, and studies of the Property as it deems necessary or appropriate, and examine and investigate to its full satisfaction all facts, circumstances, and matters relating to the Property. In connection with any entry by Buyer or its Agents (as defined in Section 10.8 below) onto the Property, Buyer shall give City reasonable advance written notice of such entry and shall conduct such entry and any inspections so as to minimize, to the extent possible, interference with uses being made of the Property and otherwise in a manner and on terms and conditions acceptable to City. All entries by Buyer or its Agents onto the Property to perform any testing or other investigations that could affect the physical condition of the Property (including, without limitation, soil borings) or the use of the Property will be made only pursuant to the terms and conditions of a permit to enter in form and substance satisfactory to City. Without limiting the foregoing, prior to any entry to perform any on-site testing, Buyer shall give City written notice of such proposed entry, including the identity of the company or persons who will perform such testing, the precise time and location of the testing, and the proposed scope of the testing. City may approve, disapprove, or condition and limit the proposed testing, at City's sole discretion, within ten (10) business days after receipt of such notice. If Buyer or its Agents, employees or contractors take any sample from the Property in connection with any approved testing, Buyer shall provide to City a portion of such sample being tested to allow City, if it so chooses, to perform its own testing. City or its representative may be present to observe any testing or other inspection performed on the Property. Buyer shall promptly deliver to City copies of any reports relating to any testing or other inspection of the Property performed by Buyer or its Agents, employees or contractors, but shall not deliver copies of any such reports to any other person or entity without City's prior written approval, unless required by law. Buyer shall keep all test results and information strictly confidential, unless required by law. In connection with any entry onto or testing of the Property, Buyer shall comply with all applicable laws, ordinances, rules, regulations, orders and the like issued or promulgated by any local, state, or federal governmental agency.

Buyer shall maintain, and shall require that its Agents maintain, public liability and property damage insurance in amounts and in form and substance adequate to insure against all liability of Buyer and its Agents arising out of any entry or inspection of the Property in connection with the transaction contemplated by this Agreement, and Buyer shall provide City with evidence of such insurance coverage upon City's request.

To the fullest extent permitted under law, Buyer shall indemnify, defend and hold harmless City, its Agents, and each of them, from and against any liabilities, costs, damages, losses, liens, claims and expenses (including, without limitation, reasonable fees of attorneys, experts and consultants and related costs) (collectively, "**Claims**") arising out of or relating to any entry on, under or about the Property by Buyer, its Agents, contractors and subcontractors in performing the inspections, testings or inquiries provided for in this Agreement, whether prior to the date of this Agreement or during its term, including, without limitation, any injuries or deaths to any persons (including, without limitation, Buyer's Agents) and damage to any property, from any cause whatsoever. The foregoing indemnity shall survive beyond the Closing, or, if the sale is not consummated, beyond the termination of this Agreement.

4.5 "As-Is" Purchase

BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS SELLING AND BUYER IS PURCHASING CITY'S INTEREST IN THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS. BUYER IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY OR ITS AGENTS AS TO ANY MATTERS CONCERNING THE PROPERTY, ITS SUITABILITY FOR BUYER'S INTENDED USES OR ANY OF THE PROPERTY CONDITIONS. CITY DOES NOT GUARANTEE THE LEGAL, PHYSICAL, GEOLOGICAL, ENVIRONMENTAL OR OTHER CONDITIONS OF THE PROPERTY, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF THE PROPERTY OR ITS USE WITH ANY STATUTE, ORDINANCE OR REGULATION. IT IS BUYER'S SOLE RESPONSIBILITY TO DETERMINE ALL BUILDING, PLANNING, ZONING AND OTHER REGULATIONS RELATING TO THE PROPERTY AND THE USES TO WHICH IT MAY BE PUT.

4.6 Release of City

As part of its agreement to purchase the Property in its "As-Is With All Faults" condition, Buyer, on behalf of itself and its successors and assigns, waives any right to recover from, and forever releases and discharges, City, its officers, employees, agents, contractors and representatives, and their respective heirs, successors, legal representatives and assigns, from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (a) Buyer's and its Agents and customer's past, present and future use of the Property, (b) the physical, geological or environmental condition of the Property, including, without limitation, any Hazardous Material in, on, under, above or about the Property, and (c) any federal, state, local or administrative law, rule, regulation, order or requirement applicable to the Property or the transactions contemplated by this Agreement, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended by Superfund Amendments and Reauthorization Act of 1986 ("SARA") (42 U.S.C. Sections 9601-9657), the Resource Conservation and Recovery Act of 1976, as amended by the Solid Waste and Disposal Act of 1984 (collectively, "RCRA") (42 U.S.C. Sections 6901-6987), the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (collectively the "Clean Water Act") (33 U.S.C. Section 1251 et seq.), the Toxic Substances Control Act ("TSCA") (15 U.S.C. Sections 2601-2629), Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the Carpenter-Presley-Tanner Hazardous Substance Account Law (commonly known as the "California Superfund" law) (California Health and Safety Code Sections 25300-25395), Hazardous Waste Control Act (California Health and Safety Code Section 25100 et seq.), Hazardous Materials Release Response Plans and Inventory Law (commonly known as the "Business Plan Law") (California Health and Safety Code Section 25500 et seq.), Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65") (California Health and Safety Code Section 25249.5 et seq.).

In connection with the foregoing release, Buyer expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN TO HIM OR HER MUST

**HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT
WITH THE DEBTOR.**

BY PLACING ITS INITIALS BELOW, BUYER SPECIFICALLY ACKNOWLEDGES AND CONFIRMS THE VALIDITY OF THE RELEASES MADE ABOVE AND THE FACT THAT BUYER WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THE ABOVE RELEASES.

INITIALS: BUYER: 

5. CONDITIONS PRECEDENT

5.1 Buyer's Conditions Precedent

Buyer's obligation to purchase the Property is conditioned upon the following:

- (a) At or before the Closing, Title Company shall have issued or shall have committed to issue to Buyer its standard form CLTA Owner's Policy of Title Insurance or at Buyer's option an ALTA Owner's Policy of Title Insurance showing fee title to the Property vested in Buyer subject to the Conditions of Title, with any endorsements reasonably requested by Buyer ("Title Policy"). The Title Policy shall be issued with liability in an amount equal to the Purchase Price. Buyer shall pay for the expense of the Title Policy.
- (b) Buyer's review and approval of the physical condition of the Property on or before expiration of the Contingency Period.
- (c) Buyer's review and approval of all zoning, land use, building, environmental and other statutes, rules, or regulations applicable to the Property on or before expiration of the Contingency Period.
- (d) Buyer's review and approval of soils reports and other documents of significance to the Property in City's possession on or before expiration of the Contingency Period.
- (e) Buyer's review and approval of environmental studies related to the Property, including without limitation any Phase I or Phase II environmental reports on or before expiration of the Contingency Period.
- (f) Buyer shall have obtained a resolution of the Pleasanton City Council authorizing and approving the transactions contemplated by this Agreement on or before January 31, 2017.

5.2 Contingency Period

Buyer shall have until 5:00 p.m. San Francisco Time on the date that is the earlier to occur of (i) ten (10) business days after the Effective Date, or (ii) sixty (60) days after the Agreement Date (the "Contingency Period") to review and approve or waive Buyer's Conditions set forth in Section 5.1(b) through (e) above. If Buyer elects to proceed with the purchase of the Property, then Buyer shall, before the expiration of the Contingency Period, notify City in writing that Buyer has approved all such matters. If before the end of the Contingency Period Buyer fails to give City such written notice and fails to object to any of Buyer's Conditions, then Buyer shall be deemed to have waived Buyer's Conditions. Notwithstanding the foregoing, if Buyer objects to any of the matters contained within Section 5.1 within the Contingency Period, then City may, but shall have no obligation to remove or remedy any objectionable matter. If City agrees to remove or remedy the objectionable matter, it shall notify Buyer within ten (10) days following Buyer's notice of objection, and the Closing Date (as defined in Section 6.2 below) shall be delayed for so long as City diligently pursues such removal or remedy. If and when City elects not to remove or remedy the objectionable matter, which City may do at any time including following an initial election to pursue remedial or corrective actions, this Agreement shall automatically terminate, the Deposit (excluding the Initial Deposit) shall be returned to Buyer, and neither Party shall

have any further rights or obligations hereunder except as provided in Sections 4.4 [Entry and Indemnity], 8.2 [Brokers], or 10.4 [Authority of Buyer] or as otherwise expressly provided in this Agreement.

5.3 City's Condition Precedent

The following are conditions precedent to City's obligation to sell the Property to Buyer ("City's Conditions Precedent"):

(a) Buyer shall have performed all of its obligations arising under this Agreement and all of Buyer's representations and warranties shall be true and correct.

(b) A resolution or ordinance approving and authorizing the transactions contemplated by this Agreement and finding that the public interest or necessity demands, or will not be inconvenienced by the sale of the Property, shall have been adopted or enacted by City's Board of Supervisors and Mayor, at their respective sole and absolute discretion. In the event such resolution or ordinance is not duly adopted or enacted on or before June 30, 2017, the City may terminate this Agreement without penalty in its sole discretion.

(c) A resolution approving and authorizing the transactions contemplated hereby shall have been adopted by the SFPUC.

5.4 Failure of City's Conditions Precedent

Each of City's Conditions Precedent are intended solely for the benefit of City. If any of City's Conditions Precedent are not satisfied as provided above, at its option, City may terminate this Agreement. Upon termination by City due to a failure of City's Conditions Precedent set forth in Section 5.3(a), the Deposit shall be retained by City and neither Party shall have any further rights or obligations under this Agreement except as provided in Sections 4.4 [Entry and Indemnity], 8.2 [Brokers], or 10.4 [Authority of Buyer] or as otherwise expressly provided in this Agreement. Upon termination by City due to a failure of City's Conditions Precedent set forth in Section 5.3(b) or 5.3(c), the Deposit (excluding the Initial Deposit) shall be returned to Buyer, and neither Party shall have any further rights or obligations hereunder except as provided in Sections 4.4 [Entry and Indemnity], 8.2 [Brokers], or 10.4 [Authority of Buyer] or as otherwise expressly provided in this Agreement.

6. ESCROW AND CLOSING

6.1 Escrow

Within three (3) days after the Effective Date, Buyer and City shall deposit an executed counterpart of this Agreement with the Title Company, and this instrument shall serve as the instructions to the Title Company as the escrow holder for consummation of the purchase and sale transaction contemplated by this Agreement. City and Buyer shall execute such supplementary escrow instructions as may be appropriate to enable the Title Company to comply with the terms of this Agreement; provided, however, in the event of any conflict between the provisions of this Agreement and any supplementary escrow instructions, the terms of this Agreement shall control.

6.2 Closing 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 the Title Company on (a) the date that is fifteen (15) days after the later of the expiration of the Contingency Period and the Effective Date, or if such date is not a business day, then upon the next ensuing business day, before 1:00 p.m. San Francisco time or (b) such earlier date and time as Buyer and City may mutually

agree upon in writing (the "Closing Date"). Such date and time may not be extended without the prior written approval of both City and Buyer.

6.3 Deposit of Documents

(a) At or before the Closing, City shall deposit into escrow the duly executed and acknowledged Deed conveying the Property to Buyer subject to the Conditions of Title.

(b) At or before the Closing, Buyer shall deposit into escrow the all funds necessary to close this transaction.

(c) City and Buyer shall each deposit such other instruments as are reasonably required by the Title Company or otherwise required to close the escrow and consummate the purchase of the Property in accordance with the terms of this Agreement.

6.4 Prorations

Any real property taxes and assessments; water, sewer and utility charges; amounts payable under any service contracts; annual permits and/or inspection fees (calculated on the basis of the period covered); and any other expenses normal to the operation and maintenance of the Property, shall all be prorated as of 12:01 a.m. on the date the Deed is recorded, on the basis of a three hundred sixty-five (365)-day year. The Purchase Price shall be increased by the amount of any utility deposits paid by City with respect to the Property. If any of the above described prorations cannot be calculated accurately on the Closing Date, then the same shall be calculated as soon as reasonably practicable after the Closing Date and either Party owing the other Party a sum of money based on such subsequent proration(s) shall promptly pay such sum to the other Party.

7. RISK OF LOSS

7.1 Loss

(a) Condemnation.

City shall give Buyer notice of any commencement of condemnation proceedings affecting the Property. In the event that all or any portion of the Property is condemned, then Buyer may, at its option to be exercised within ten (10) days of City's notice of the commencement of condemnation proceedings, either terminate this Agreement or consummate the purchase for the full Purchase Price as required by the terms hereof. If Buyer elects to terminate this Agreement or fails to give City notice within such ten (10)-day period that Buyer will proceed with the purchase, then this Agreement shall terminate at the end of such ten (10)-day period, the Title Company shall return the Deposit (excluding the Initial Deposit) to Buyer, and neither party shall have any further rights or obligations hereunder except as provided in Sections 4.4 [Entry and Indemnity], 8.2 [Brokers], or otherwise expressly provided herein. If Buyer elects to proceed with the purchase of the Property, then upon the Closing, Buyer shall receive a credit against the Purchase Price payable hereunder equal to the amount of any condemnation awards actually collected by City as a result of any such condemnation. If the awards have not been collected as of the Closing, then City shall assign such awards to Buyer, and Buyer shall not receive any credit against the Purchase Price with respect to such awards.

(b) Damage or Destruction

In the event that all or any portion of the Property is destroyed or damaged by fire or other casualty prior to the Closing, then this Agreement shall not terminate and Buyer shall consummate the purchase for the full Purchase Price. In such event, then upon the Closing,

Buyer shall receive a credit against the Purchase Price payable hereunder equal to the amount of any insurance proceeds actually collected by City as a result of any such damage or destruction, plus the amount of any insurance deductible, less any sums expended by City toward the restoration or repair of the Property. If the proceeds have not been collected as of the Closing, then City shall assign such proceeds to Buyer, except to the extent needed to reimburse City for sums expended to repair or restore the Property, and Buyer shall not receive any credit against the Purchase Price with respect to such proceeds.

7.2 Self-Insurance

Notwithstanding anything to the contrary above, Buyer acknowledges that City self-insures and shall not be obligated to purchase any third-party commercial liability insurance or property insurance.

8. EXPENSES

8.1 Expenses

Buyer shall pay any transfer taxes applicable to the sale, personal property taxes, escrow fees and recording charges and any other costs and charges of the escrow for the sale.

8.2 Brokers

Except as identified below, neither Party has had any contact or dealings regarding the sale of the Property, or any communication in connection with the sale of the Property, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with this Agreement. Accordingly, any such commission or finder's fee, if due, shall be paid pursuant to a separate written agreement between such broker or other person and the Party through which such broker or other person contracted. If any other 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 a claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other Party from any and all Claims incurred by the indemnified Party in defending against the same. The provisions of this Section shall survive any termination of this Agreement.

(a) City acknowledges that: (i) prior to the Effective Date, it entered into a written agreement with Colliers International CA, Inc. that provides for real estate brokerage services in connection with the marketing and sale of the Property and (ii) City shall be solely responsible for any compensation, commission, or finder's fee payable to Colliers International CA, Inc. in connection with the purchase transaction contemplated by this Agreement.

(b) Buyer acknowledges that: (i) prior to the Effective Date, it entered into a written agreement with Mark Sweeney of Newmark & Company Real Estate, Inc. that provides for real estate brokerage services in connection with Buyer's proposed acquisition of the Property and (ii) Buyer shall be solely responsible for any compensation, commission, or finder's fee payable to Mark Sweeney of Newmark & Company Real Estate, Inc. in connection with the purchase transaction contemplated by this Agreement.

9. LIQUIDATED DAMAGES

IF THE SALE OF THE PROPERTY IS NOT CONSUMMATED BECAUSE OF THE FAILURE OF ANY CONDITION PRECEDENT OR CITY'S DEFAULT UNDER THIS AGREEMENT AND BUYER IS NOT THEN IN DEFAULT, THEN THE TITLE

COMPANY SHALL RETURN THE DEPOSIT (EXCLUDING THE INITIAL DEPOSIT) TOGETHER WITH ACCRUED INTEREST THEREON TO BUYER. IF THE SALE IS NOT CONSUMMATED BECAUSE OF ANY DEFAULT BY BUYER UNDER THIS AGREEMENT AND CITY IS NOT THEN IN DEFAULT, THEN THE TITLE COMPANY SHALL DELIVER THE DEPOSIT TOGETHER WITH ACCRUED INTEREST THEREON TO CITY, AND CITY SHALL BE ENTITLED TO RETAIN SUCH SUM AS LIQUIDATED DAMAGES. THE PARTIES HAVE AGREED THAT CITY'S ACTUAL DAMAGES, IN THE EVENT OF A FAILURE TO CONSUMMATE THIS SALE AS SPECIFIED IN THE PRECEDING SENTENCE, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. AFTER NEGOTIATION, THE PARTIES HAVE AGREED THAT, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, THE AMOUNT OF THE DEPOSIT TOGETHER WITH ACCRUED INTEREST THEREON IS A REASONABLE ESTIMATE OF THE DAMAGES THAT CITY WOULD INCUR IN SUCH AN EVENT. BY PLACING THEIR RESPECTIVE INITIALS BELOW, EACH PARTY SPECIFICALLY CONFIRMS THE ACCURACY OF THE STATEMENTS MADE ABOVE AND THE FACT THAT EACH PARTY WAS REPRESENTED BY COUNSEL WHO EXPLAINED, AT THE TIME THIS AGREEMENT WAS MADE, THE CONSEQUENCES OF THIS LIQUIDATED DAMAGES PROVISION.

INITIALS: CITY: _____ BUYER: 

10. GENERAL PROVISIONS

10.1 Notices

Any notices, request, consent, or approval required or permitted to be given under this Agreement shall be in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, or (c) by U.S. Express Mail or commercial overnight courier that guarantees next day delivery and provides a receipt, Such notices, requests, consents, or approvals shall be addressed as follows:

CITY:

Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Attn: Director of Property
Re: 401 & 403 Old Bernal
Avenue, Pleasanton

with a copy to:

Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
Attn: Real Estate/Finance Team
Re: 401 & 403 Old Bernal Avenue,
Pleasanton
and:

BUYER:

Finance Department
City of Pleasanton
123 Main St
Pleasanton, CA 94566
Attn: Director of Finance

with a copy to:

City Attorney
Office of the City Attorney
123 Main Street
Pleasanton, CA 94566
Attn: City Attorney

San Francisco Public Utilities
Commission
Real Estate Services Division
525 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Attn: Real Estate Director
Re: 401 & 403 Old Bernal Avenue,
Pleasanton

or such other address as either Party may from time to time specify in writing to the other Party, A properly addressed notice, consent, request, or approval transmitted by one of the foregoing methods shall be deemed received upon the confirmed date of delivery, attempted delivery, or rejected delivery, whichever occurs first. Any e-mail addresses or facsimile numbers provided are for convenience of communication and neither Party may give an official or binding notice, consent, request, or approval by e-mail or facsimile. The effective time of a notice, consent, request, or approval shall not be affected by the receipt, prior to receipt of the original, of an e-mailed or telefacsimile copy of the notice, consent, request, or approval.

10.2 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors, heirs, legal representatives, administrators and assigns. Buyer's rights and obligations under this Agreement shall not be assignable without City's prior written consent; provided, however, even if City approves any such proposed assignment, in no event shall Buyer be released of any of its obligations under this Agreement.

10.3 Amendments

This Agreement may be amended or modified only by a written instrument signed by the Buyer and City.

10.4 Authority of Buyer

Buyer represents and warrants to City that Buyer is a municipal corporation duly organized, validly existing, and in good standing under the laws of the State of California. Buyer further represents and warrants to City that this Agreement and all documents executed by Buyer that are to be delivered to City at Closing: (a) are or at the time of Closing will be duly authorized, executed and delivered by Buyer; (b) are or at the time of Closing will be legal, valid and binding obligations of Buyer; and (c) do not and at the time of Closing will not violate any provision of any agreement or judicial order to which Buyer is a Party or to which Buyer is subject. Notwithstanding anything to the contrary in this Agreement, the foregoing representations and warranties and any and all other representations and warranties of Buyer contained in this Agreement or in other agreements or documents executed by Buyer in connection with the purchase transaction contemplated by this Agreement, shall survive the Closing Date.

10.5 Buyer's Representations and Warranties

Buyer makes the following representations as of the date of this Agreement and at all times throughout this Agreement:

(a) Buyer is a municipal corporation duly organized and validly existing and in good standing under the laws of the jurisdiction in which it was formed. Buyer has duly authorized by all necessary action the execution, delivery and performance of this Agreement.

Buyer has duly executed and delivered this Agreement and this Agreement constitutes a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

(b) Buyer 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. If, prior to Closing Buyer is so suspended, disbarred, disciplined or prohibited from contracting with any governmental agency, it shall immediately notify 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.

(c) No document or instrument furnished or to be furnished by the Buyer to 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 in such documents or instruments not misleading, under the circumstances under which any such statement shall have been made.

10.6 Governing Law

This Agreement shall be governed by, subject to, and construed in accordance with the laws of the State of California and City's Charter and Administrative Code.

10.7 Merger of Prior Agreements

This Agreement, together with its attached exhibits, contain any and all representations, warranties and covenants made by Buyer and City and constitutes the entire understanding between the Parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda or agreements are replaced in total by this Agreement together with its attached exhibits.

10.8 Parties and Their Agents

The term "Buyer" as used in this Agreement shall include the plural as well as the singular. If Buyer consists of more than one (1) individual or entity, then the obligations under this Agreement imposed on Buyer shall be joint and several. As used in this Agreement, the term "Agents" when used with respect to either Party shall include the agents, employees, officers, contractors and representatives of such Party.

10.9 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 in this Agreement. Whenever the context so requires, the use of the singular shall be deemed to include the plural and vice versa, and each gender reference shall be deemed to include the other and the neuter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, each Party has been represented 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.

10.10 Attorneys' Fees

If either Party fails to perform any of its respective obligations under this Agreement or if any dispute arises between the Parties concerning the meaning or interpretation of any provision of this Agreement, then the defaulting Party or the Party not prevailing in such dispute, as the

case may be, shall pay any and all costs and expenses incurred by the other Party on account of such default or in enforcing or establishing its rights under this Agreement, including, without limitation, court costs and reasonable attorneys' fees and disbursements. For purposes of this Agreement, the reasonable fees of attorneys of the Office of the City Attorney of the City and County of San Francisco and the City Attorney for the City of Pleasanton 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 or the City of Pleasanton, as the case may be, in law firms with approximately the same number of attorneys as employed by the City Attorney's Office.

10.11 Time of Essence

Time is of the essence with respect to the performance of the Parties' respective obligations contained in this Agreement.

10.12 No Merger

The obligations of the Parties pursuant to this Agreement shall not merge with the transfer of title to the Property but shall remain in effect until fulfilled.

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

10.14 Conflicts of Interest

Through its execution of this Agreement, Buyer and City acknowledge that they are familiar with the provisions of 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 they do not know of any facts that constitute a violation of such provisions and agrees that if either Party becomes aware of any such fact during the term of this Agreement, the Party shall immediately notify the other Party.

10.15 Notification of Limitations on Contributions

Through its execution of this Agreement, Buyer 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 City for the selling or leasing of any land or building to or from 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 (a) the City elective officer, (b) a candidate for the office held by such individual, or (c) 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. Buyer 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. Buyer further acknowledges that the prohibition on contributions applies to each Buyer; each member of Buyer's board of directors, and Buyer's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Buyer; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Buyer.

Additionally, Buyer acknowledges that Buyer must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Buyer further agrees to provide to City the names of each person, entity or committee described above.

10.16 Sunshine Ordinance

Buyer 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 City or Buyer in connection with this Agreement may be public records subject to public disclosure. Except as otherwise provided in this Agreement, the Parties hereby acknowledge that either Party may disclose any records, information and materials submitted to each other in connection with this Agreement.

10.17 Tropical Hardwood and Virgin Redwood Ban

City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code.

10.18 No Recording

Neither this Agreement nor any memorandum or short form thereof may be recorded by Buyer.

10.19 Effective Date

As used in this Agreement, the term "Effective Date" shall mean the first date on which each of the following has been completed: (a) City's Board of Supervisors and Mayor have adopted or enacted a resolution or an ordinance approving and authorizing this Agreement and the transactions contemplated by this Agreement; (b) Buyer's City Council has adopted a resolution approving and authorizing this Agreement; and (c) this Agreement has been mutually executed and delivered by both Parties.

10.20 Severability

If any provision of this Agreement or the application of any such provision 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.

10.21 Acceptance by Buyer

This Agreement shall be null and void unless it is accepted by Buyer and two (2) copies of this Agreement executed by Buyer are returned to City on or before 5:00 p.m. San Francisco time on January 6, 2017.

10.22 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.

10.23 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, THE PARTIES ACKNOWLEDGE AND AGREE THAT NO OFFICER OR EMPLOYEE OF EITHER PARTY HAS AUTHORITY TO COMMIT CITY OR BUYER TO THIS AGREEMENT UNLESS AND UNTIL RESOLUTIONS OF CITY'S PUBLIC UTILITIES COMMISSION AND BOARD OF SUPERVISORS AND BUYER'S CITY COUNCIL SHALL HAVE BEEN DULY ENACTED APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF THE PARTIES HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH RESOLUTIONS, AND THIS AGREEMENT SHALL BE NULL AND VOID IF CITY'S PUBLIC UTILITIES COMMISSION, BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT AT THEIR RESPECTIVE SOLE DISCRETION OR IF THE BUYER'S CITY COUNCIL DOES NOT APPROVE THIS AGREEMENT AT ITS SOLE DISCRETION. APPROVAL OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT BY ANY DEPARTMENT, COMMISSION OR AGENCY OF THE PARTIES SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON EITHER PARTY.

[SIGNATURES ON FOLLOWING PAGE]

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

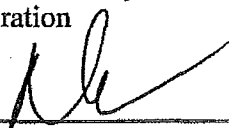
CITY:

SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

By: _____
Harlan L. Kelly, Jr.
General Manager
Date: _____

BUYER:

CITY OF PLEASANTON, a California
municipal corporation

By:  _____
Nelson Fialho
City Manager
Date: _____

APPROVED AS TO FORM:

Daniel G. Sodergren, City Attorney

By:  _____
Daniel G. Sodergren

APPROVED BY
PUBLIC UTILITIES COMMISSION

Pursuant to Resolution No. 16-023
Adopted 12/13/16

Secretary

APPROVED BY BOARD OF SUPERVISORS

By Resolution No. _____

Dated _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney


By:  _____
Elizabeth Dietrich
Deputy City Attorney

EXHIBIT A

PROPERTY DESCRIPTION

All that certain real property situated in the City of Pleasanton, Alameda County, State of California, and described as follows:

For APN/Parcel ID(s): 094-0157-005-17 and 094-0157-022-00

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

COMMENCING AT AN IRON MONUMENT SET IN THE GROUND IN THE CENTER OF COUNTY ROAD NUMBER 2000 AT THE SOUTHEAST CORNER OF A TRACT OF 91.204 ACRES CONVEYED BY THE SUBURBAN COMPANY TO THE SPRING VALLEY WATER WORKS, BY DEED DATED NOVEMBER 1, 1902 AND RECORDED DECEMBER 20, 1902, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, IN BOOK 881 OF DEEDS, AT PAGE 172; AND RUNNING THENCE ALONG THE NORTHERLY BOUNDARY LINE OF A 137.50 ACRE TRACT CONVEYED BY THE SUBURBAN COMPANY TO SPRING VALLEY WATER WORKS BY THE LAST HEREINBEFORE MENTIONED DEED, AND ALONG THE CENTER LINE OF SAID COUNTY ROAD NO. 2000, AND CROSSING THE EXISTING RIGHT OF WAY OF THE WESTERN PACIFIC RAILWAY COMPANY, EAST 41.50 CHAINS (2739 FEET), MORE OR LESS, TO A POINT 5.43 CHAINS (358.38 FEET) DUE WEST OF THE NORTHEAST CORNER OF PLOT NO. 43 OF THE BERNAL PORTION OF THE RANCHO EL VALLE DE SAN JOSE; THENCE ALONG THE WESTERLY BOUNDARY OF LANDS FORMERLY KNOWN AND DESCRIBED IN SAID DEED AS THE "AUGUSTIN BERNAL HOME PLACE" AND THE "CONCEPCION SOTO 97.175 ACRE TRACT", SOUTHWESTERLY 600 FEET; THENCE SOUTH 65° 40' EAST, 4.45 CHAINS (293.70 FEET), MORE OR LESS, TO A POINT IN THE CENTER OF THE COUNTY ROAD RUNNING FROM SUNOL TO PLEASANTON, SAID POINT BEING ALSO STATION NO. 3 OF THE EXTERIOR BOUNDARY OF PLOT NO. 43 OF THE BERNAL PORTION OF THE RANCHO EL VALLE DE SAN JOSE; THENCE ALONG THE CENTER LINE OF SAID COUNTY ROAD, SOUTH 34° 20' WEST, 1.85 CHAINS (122.10 FEET) TO THE WESTERLY LINE OF THE CENTRAL PACIFIC RAILROAD RIGHT OF WAY; THENCE ALONG SAID LINE OF SAID RIGHT OF WAY, SOUTHWESTERLY 36.30 CHAINS (2395.80 FEET), MORE OR LESS, TO ITS INTERSECTION WITH THE SOUTHERLY BOUNDARY LINE OF SAID PLOT NO. 43; THENCE CONTINUING ALONG SAID LINE OF SAID RIGHT OF WAY AND ALONG THE EASTERLY BOUNDARY LINE OF 93.64 ACRE TRACT DESCRIBED IN PARAGRAPH XXII OF SAID DEED LAST HEREINBEFORE MENTIONED, SOUTH 33° 07' WEST, 35.87 CHAINS (2367.42 FEET); THENCE SOUTH 29° 37' WEST, 4.10 CHAINS (270.60 FEET); THENCE SOUTH 17° 37' WEST, 4.16 CHAINS (274.56 FEET); THENCE SOUTH 6° 14' WEST, 3.68 CHAINS (242.88 FEET); THENCE LEAVING SAID RIGHT OF WAY, SOUTH 89° 20' WEST, 7.80 CHAINS (514.80 FEET); THENCE LEAVING THE SOUTHERLY BOUNDARY OF SAID 93.64 ACRE TRACT, NORTH 45° 00' WEST, 445.5 FEET TO A POINT IN THE WESTERLY BOUNDARY OF SAID TRACT AND THE MOST SOUTHERLY CORNER OF A 1.138 ACRE TRACT CONVEYED BY THE SUBURBAN COMPANY TO THE SPRING VALLEY WATER WORKS BY SAID DEED LAST HEREINBEFORE MENTIONED; THENCE CONTINUING NORTH 45° 00' WEST ALONG THE SOUTHWESTERLY BOUNDARY THEREOF, 305.8 FEET; THENCE ALONG THE SOUTHEASTERLY BOUNDARY OF 108.48 ACRE TRACT CONVEYED BY THE SUBURBAN COMPANY TO SPRING VALLEY WATER WORKS BY SAID DEED LAST HEREINBEFORE MENTIONED, SOUTH 39° 30' WEST, 8.38 CHAINS (582.78 FEET); THENCE SOUTH 27° 15' WEST, 4.26 CHAINS (281.18 FEET); THENCE SOUTH 16° WEST, 4.72 CHAINS (311.52 FEET); THENCE SOUTH 30° 15' WEST, 2.13 CHAINS (140.58 FEET); THENCE SOUTH 71° 45' WEST, 2.63 CHAINS (173.58 FEET); THENCE SOUTH 44° 30' WEST, 1.74 CHAINS (114.84 FEET); THENCE SOUTH 10° 15' EAST, 3.26 CHAINS (215.16 FEET) TO THE CENTER OF ARROYO DE LA LAGUNA; THENCE DOWN AND ALONG THE CENTER OF SAID ARROYO, WHICH IS ALSO THE NORTHEASTERLY BOUNDARY OF 22.84 ACRE TRACT DESCRIBED IN PARAGRAPH XIX OF SAID DEED LAST HEREINBEFORE MENTIONED, IN A SOUTHEASTERLY DIRECTION, 690.0 FEET, MORE OR LESS, TO THE MOST EASTERLY CORNER OF SAID 22.84 ACRE TRACT; THENCE SOUTH 54° 00' WEST, 8.61 CHAINS (568.26 FEET); THENCE NORTH 73° 59' WEST, 10.03 CHAINS (661.98 FEET) TO A POINT ON THE BOUNDARY BETWEEN PLOTS 46 AND 49 OF SAID BERNAL PORTION OF THE RANCHO EL VALLE DE SAN JOSE; THENCE ALONG SAID BOUNDARY, NORTH 18.47 CHAINS (1219.02 FEET), MORE OR LESS, TO A POINT IN THE CENTER OF ARROYO DE LA LAGUNA AND THE MOST SOUTHERLY CORNER OF A 30.0 ACRE TRACT CONVEYED BY SUBURBAN COMPANY TO SPRING VALLEY WATER WORKS BY SAID DEED LAST HEREINBEFORE MENTIONED; THENCE FOLLOWING UP THE CENTER OF SAID ARROYO, THE FOLLOWING COURSES AND DISTANCES: NORTH 43° 30' WEST,

3.00 CHAINS (198 FEET); NORTH 24° 45' WEST, 3.00 CHAINS (198 FEET); NORTH 14° 45' WEST, 2.56 CHAINS (168.96 FEET); NORTH 19° WEST, 4.00 CHAINS (264 FEET); NORTH 24° WEST, 2.00 CHAINS (132 FEET); NORTH 26° WEST, 4.00 CHAINS (264 FEET); NORTH 33° 30' WEST, 2.50 CHAINS (165 FEET); NORTH 8° 30' EAST, 2.00 CHAINS (132 FEET); NORTH 34° 15' EAST, 1.00 CHAIN (66 FEET); NORTH 8° 15' WEST, 4.50 CHAINS (297 FEET); NORTH 46° 30' WEST, 1.75 CHAINS (115.50 FEET); NORTH 22° 15' WEST, 0.83 CHAIN (54.78 FEET); NORTH 35° 15' WEST, 1.50 CHAINS (99 FEET); NORTH 13° 45' EAST, 0.75 CHAIN (49.50 FEET); NORTH 37° 45' WEST, 0.50 CHAIN (33 FEET); SOUTH 83° 30' WEST, 1.25 CHAINS (82.50 FEET); NORTH 28° 45' WEST, 1.50 CHAINS (99 FEET); NORTH 4° WEST, 1.00 CHAIN (66 FEET); NORTH 13° 30' WEST, 2.00 CHAINS (132 FEET); NORTH 49° WEST, 1.50 CHAINS (99 FEET); NORTH 12° WEST, 0.75 CHAIN (49.50 FEET); NORTH 38° 15' WEST, 1.43 CHAINS (94.38 FEET) TO THE SOUTHWESTERLY CORNER OF AN 8.12 ACRE TRACT CONVEYED BY SUBURBAN COMPANY TO SPRING VALLEY WATER WORKS BY SAID DEED LAST HEREINBEFORE MENTIONED; THENCE CONTINUING NORTHWESTERLY, ALONG THE CENTER OF SAID ARROYO, AND FOLLOWING THE SOUTHWESTERLY BOUNDARY OF SAID 8.12 ACRE TRACT AND THE SOUTHWESTERLY BOUNDARIES OF A 10.12 ACRE TRACT, A 10.88 ACRE TRACT AND A 43.92 ACRE TRACT, WHICH LAST THREE TRACTS WERE CONVEYED BY SUBURBAN COMPANY TO SPRING VALLEY WATER WORKS BY SAID DEED LAST HEREINBEFORE MENTIONED, 37.50 CHAINS (2475 FEET), MORE OR LESS, TO THE NORTHWESTERLY CORNER OF SAID 43.92 ACRE TRACT AND THE CENTER OF COUNTY ROAD NO. 2000; THENCE ALONG THE CENTER LINE OF COUNTY ROAD NO. 2000, NORTH 63° 32-1/2' EAST, 36.83 CHAINS (2377.98 FEET), MORE OR LESS, TO AN ANGLE IN SAID CENTER LINE; THENCE CONTINUING ALONG SAID CENTER LINE OF COUNTY ROAD NO. 2000, EAST 2761.25 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION LYING WESTERLY OF THE EASTERLY LINE OF THE RIGHT OF WAY OF THE WESTERN PACIFIC RAILWAY COMPANY, A CALIFORNIA CORPORATION, DESCRIBED IN THE INSTRUMENT RECORDED DECEMBER 4, 1913, BOOK 2217 OF DEEDS, PAGE 134, SERIES NO. P34941, ALAMEDA COUNTY RECORDS.

ALSO EXCEPTING THEREFROM, THOSE PORTIONS LYING SOUTHERLY AND EASTERLY OF THE SOUTHERLY AND EASTERLY LINES OF PARCEL C-1 AS DESCRIBED IN THE FINAL JUDGMENT AND ORDER OF CONDEMNATION ENTERED MAY 24, 1984, IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF ALAMEDA, CASE NOS. 367464 AND 385598, A CERTIFIED COPY OF WHICH RECORDED MAY 25, 1984, SERIES NO. 84-102960, OFFICIAL RECORDS.

AND ALSO EXCEPTING THEREFROM, THAT PORTION DESCRIBED AS PARCEL C-2 AS DESCRIBED IN THE FINAL JUDGMENT AND ORDER OF CONDEMNATION ENTERED MAY 24, 1984, IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF ALAMEDA, CASE NOS. 367464 AND 385598, A CERTIFIED COPY OF WHICH RECORDED MAY 25, 1984, SERIES NO. 84-102960, OFFICIAL RECORDS.

EXHIBIT A-1

MAP OF PROPERTY

[Attached]

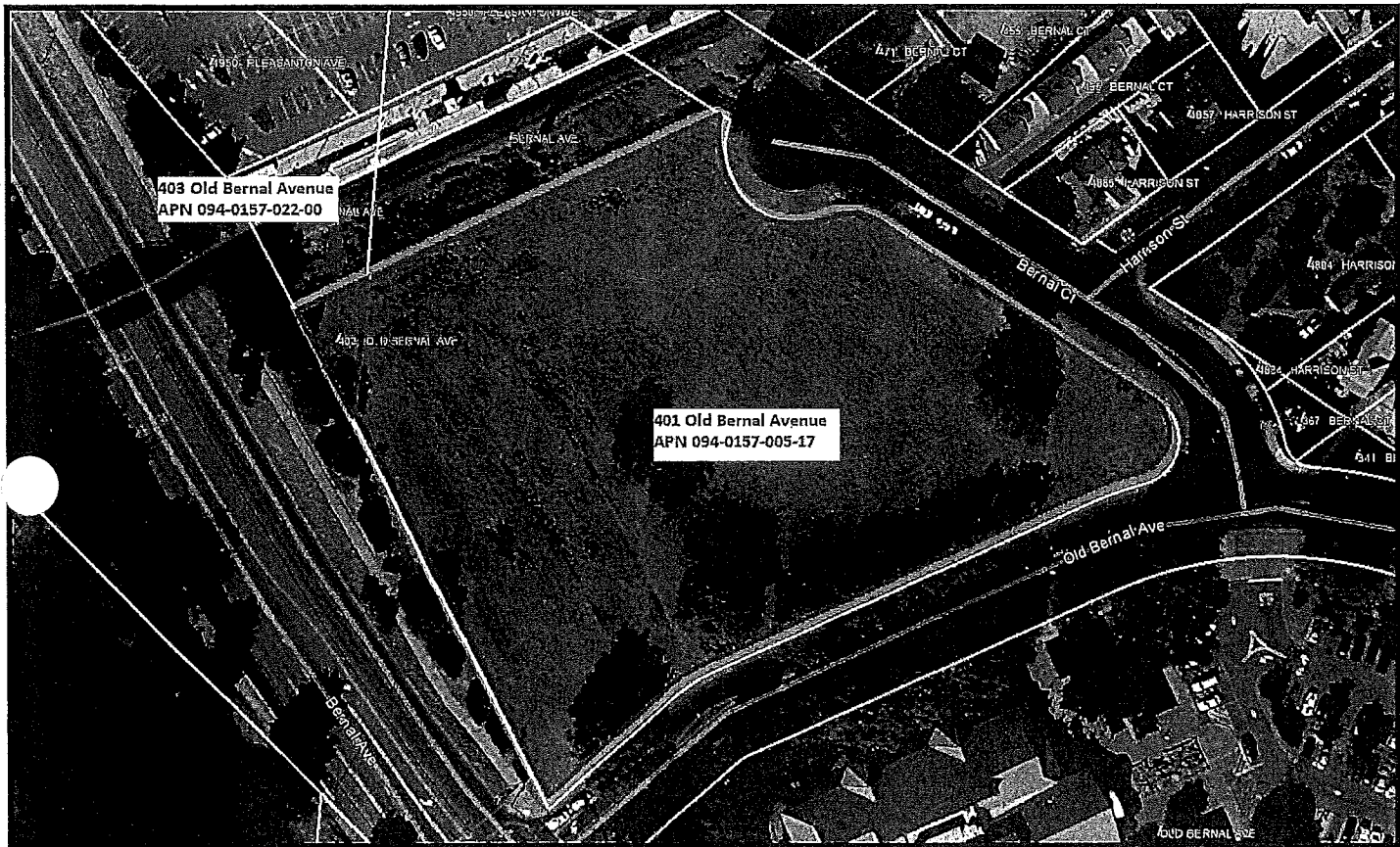


Exhibit A-1 — Map of Property

Assessor's Parcel Numbers 094-0157-005-17 & 094-0157-022-00

401 & 403 Old Bernal Avenue, Fremont CA

SFPUC Parcel 69

Sale of SFPUC Property

— SFPUC Property Boundaries
— Assessor's Parcel Numbers



San Francisco
Water Power Sewer
Operator of the Hetch Hetchy Regional Water System

EXHIBIT B
QUITCLAIM DEED

(see attached)

QUITCLAIM DEED

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

San Francisco Public Utilities Commission
Real Estate Services Division
525 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
Attn: Real Estate Director

MAIL TAX STATEMENTS TO:

Attn: _____

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)

Address: 401 & 403 Old Bernal Avenue, Pleasanton,
CA

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

APNs: 094-0157-005-17 and 094-0157-022-00

Documentary Transfer Tax of \$ _____ based upon full market value of the property without deduction for any lien or
encumbrance

QUITCLAIM DEED

(Assessor's Parcel Nos. 094-0157-005-17 and 094-0157-022-00)

FOR VALUABLE CONSIDERATION, receipt and adequacy of which are hereby
acknowledged, the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation
("City"), pursuant to Ordinance No. _____, adopted by the Board of Supervisors on
_____, 20____ and approved by the Mayor on _____, 20____, hereby
RELEASES, REMISES AND QUITCLAIMS to CITY OF PLEASANTON, a municipal
corporation ("Buyer"), any and all right, title and interest City may have in and to the real
property described on Exhibit A attached hereto and made a part hereof.

Executed as of this _____ day of _____, 2016.

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: _____

Elizabeth A. Dietrich
Deputy City Attorney

DESCRIPTION CHECKED/APPROVED:

By: _____

[NAME]
City Engineer

EXHIBIT A

Legal Description of Property

All that certain real property situated in the City of Pleasanton, Alameda County, State of California, and described as follows:

For APN/Parcel ID(s): 094-0157-005-17 and 094-0157-022-00

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

COMMENCING AT AN IRON MONUMENT SET IN THE GROUND IN THE CENTER OF COUNTY ROAD NUMBER 2000 AT THE SOUTHEAST CORNER OF A TRACT OF 91.204 ACRES CONVEYED BY THE SUBURBAN COMPANY TO THE SPRING VALLEY WATER WORKS, BY DEED DATED NOVEMBER 1, 1902 AND RECORDED DECEMBER 20, 1902, IN THE OFFICE OF THE COUNTY RECORDER OF ALAMEDA COUNTY, IN BOOK 881 OF DEEDS, AT PAGE 172; AND RUNNING THENCE ALONG THE NORTHERLY BOUNDARY LINE OF A 137.50 ACRE TRACT CONVEYED BY THE SUBURBAN COMPANY TO SPRING VALLEY WATER WORKS BY THE LAST HEREINBEFORE MENTIONED DEED, AND ALONG THE CENTER LINE OF SAID COUNTY ROAD NO. 2000, AND CROSSING THE EXISTING RIGHT OF WAY OF THE WESTERN PACIFIC RAILWAY COMPANY, EAST 41.50 CHAINS (2739 FEET), MORE OR LESS, TO A POINT 5.43 CHAINS (358.38 FEET) DUE WEST OF THE NORTHEAST CORNER OF PLOT NO. 43 OF THE BERNAL PORTION OF THE RANCHO EL VALLE DE SAN JOSE; THENCE ALONG THE WESTERLY BOUNDARY OF LANDS FORMERLY KNOWN AND DESCRIBED IN SAID DEED AS THE "AUGUSTIN BERNAL HOME PLACE" AND THE "CONCEPCION SOTO 97.175 ACRE TRACT", SOUTHWESTERLY 600 FEET; THENCE SOUTH 65° 40' EAST, 4.45 CHAINS (293.70 FEET), MORE OR LESS, TO A POINT IN THE CENTER OF THE COUNTY ROAD RUNNING FROM SUNOL TO PLEASANTON, SAID POINT BEING ALSO STATION NO. 3 OF THE EXTERIOR BOUNDARY OF PLOT NO. 43 OF THE BERNAL PORTION OF THE RANCHO EL VALLE DE SAN JOSE; THENCE ALONG THE CENTER LINE OF SAID COUNTY ROAD, SOUTH 34° 20' WEST, 1.85 CHAINS (122.10 FEET) TO THE WESTERLY LINE OF THE CENTRAL PACIFIC RAILROAD RIGHT OF WAY; THENCE ALONG SAID LINE OF SAID RIGHT OF WAY, SOUTHWESTERLY 36.30 CHAINS (2395.80 FEET), MORE OR LESS, TO ITS INTERSECTION WITH THE SOUTHERLY BOUNDARY LINE OF SAID PLOT NO. 43; THENCE CONTINUING ALONG SAID LINE OF SAID RIGHT OF WAY AND ALONG THE EASTERLY BOUNDARY LINE OF 93.64 ACRE TRACT DESCRIBED IN PARAGRAPH XXII OF SAID DEED LAST HEREINBEFORE MENTIONED, SOUTH 33° 07' WEST, 35.87 CHAINS (2367.42 FEET); THENCE SOUTH 29° 37' WEST, 4.10 CHAINS (270.60 FEET); THENCE SOUTH 17° 37' WEST, 4.16 CHAINS (274.56 FEET); THENCE SOUTH 6° 14' WEST, 3.68 CHAINS (242.88 FEET); THENCE LEAVING SAID RIGHT OF WAY, SOUTH 89° 20' WEST, 7.80 CHAINS (514.80 FEET); THENCE LEAVING THE SOUTHERLY BOUNDARY OF SAID 93.64 ACRE TRACT, NORTH 45° 00' WEST, 445.5 FEET TO A POINT IN THE WESTERLY BOUNDARY OF SAID TRACT AND THE MOST SOUTHERLY CORNER OF A 1.138 ACRE TRACT CONVEYED BY THE SUBURBAN COMPANY TO THE SPRING VALLEY WATER WORKS BY SAID DEED LAST HEREINBEFORE MENTIONED; THENCE CONTINUING NORTH 45° 00' WEST ALONG THE SOUTHWESTERLY BOUNDARY THEREOF, 305.8 FEET; THENCE ALONG THE SOUTHEASTERLY BOUNDARY OF 108.48 ACRE TRACT CONVEYED BY THE SUBURBAN COMPANY TO SPRING VALLEY WATER WORKS BY SAID DEED LAST HEREINBEFORE MENTIONED, SOUTH 39° 30' WEST, 8.38 CHAINS (582.78 FEET); THENCE SOUTH 27° 15' WEST, 4.26 CHAINS (281.16 FEET); THENCE SOUTH 16° WEST, 4.72 CHAINS (311.52 FEET); THENCE SOUTH 30° 15' WEST, 2.13 CHAINS (140.58 FEET); THENCE SOUTH 71° 45' WEST, 2.63 CHAINS (173.58 FEET); THENCE SOUTH 44° 30' WEST, 1.74 CHAINS (114.84 FEET); THENCE SOUTH 10° 15' EAST, 3.26 CHAINS (215.16 FEET) TO THE CENTER OF ARROYO DE LA LAGUNA; THENCE DOWN AND ALONG THE CENTER OF SAID ARROYO, WHICH IS ALSO THE NORTHEASTERLY BOUNDARY OF 22.84 ACRE TRACT DESCRIBED IN PARAGRAPH XIX OF SAID DEED LAST HEREINBEFORE MENTIONED, IN A SOUTHEASTERLY DIRECTION, 690.0 FEET, MORE OR LESS, TO THE MOST EASTERLY CORNER OF SAID 22.84 ACRE TRACT; THENCE SOUTH 54° 00' WEST, 8.61 CHAINS (568.26 FEET); THENCE NORTH 73° 59' WEST, 10.03 CHAINS (661.98 FEET) TO A POINT ON THE BOUNDARY BETWEEN PLOTS 46 AND 49 OF SAID BERNAL PORTION OF THE RANCHO EL VALLE DE SAN JOSE; THENCE ALONG SAID BOUNDARY, NORTH 18.47 CHAINS (1219.02 FEET), MORE OR LESS, TO A POINT IN THE CENTER OF ARROYO DE LA LAGUNA AND THE MOST SOUTHERLY CORNER OF A 30.0 ACRE TRACT CONVEYED BY SUBURBAN COMPANY TO SPRING VALLEY WATER WORKS BY SAID DEED LAST HEREINBEFORE MENTIONED; THENCE FOLLOWING UP THE CENTER OF SAID ARROYO, THE FOLLOWING COURSES AND DISTANCES: NORTH 43° 30' WEST,

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EXCEPTING THEREFROM, THAT PORTION LYING WESTERLY OF THE EASTERLY LINE OF THE RIGHT OF WAY OF THE WESTERN PACIFIC RAILWAY COMPANY, A CALIFORNIA CORPORATION, DESCRIBED IN THE INSTRUMENT RECORDED DECEMBER 4, 1913, BOOK 2217 OF DEEDS, PAGE 134, SERIES NO. P34941, ALAMEDA COUNTY RECORDS.

ALSO EXCEPTING THEREFROM, THOSE PORTIONS LYING SOUTHERLY AND EASTERLY OF THE SOUTHERLY AND EASTERLY LINES OF PARCEL C-1 AS DESCRIBED IN THE FINAL JUDGMENT AND ORDER OF CONDEMNATION ENTERED MAY 24, 1984, IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF ALAMEDA, CASE NOS. 367464 AND 385598, A CERTIFIED COPY OF WHICH RECORDED MAY 25, 1984, SERIES NO. 84-102960, OFFICIAL RECORDS.

AND ALSO EXCEPTING THEREFROM, THAT PORTION DESCRIBED AS PARCEL C-2 AS DESCRIBED IN THE FINAL JUDGMENT AND ORDER OF CONDEMNATION ENTERED MAY 24, 1984, IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF ALAMEDA, CASE NOS. 367464 AND 385598, A CERTIFIED COPY OF WHICH RECORDED MAY 25, 1984, SERIES NO. 84-102960, OFFICIAL RECORDS.



SAN FRANCISCO PLANNING DEPARTMENT

General Plan Referral

Date: November 6, 2016

Case No. Case No. 2016-012319GPR
Sale of Property on Old Bernal Avenue

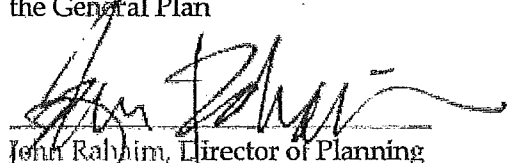
Block/Lot No.: 094-0157-005-17, 094-0157-022-00
401 & 403 Old Bernal Avenue, Pleasanton California

Project Sponsor: Rosanna Russell
San Francisco Public Utilities Commission
525 Golden Gate Avenue
10th Floor
San Francisco, CA 94102
415-487-5213

Applicant: Same as Above

Staff Contact: Kay Cheng – (415) 575-9094
kay.cheng@sfgov.org

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

Recommended By: 
John Rahaim, 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 San Francisco Public Utilities Commission (SFPUC) proposes an as-is sale of a 3.18 acre portion of underutilized land located adjacent at 401 & 403 Old Bernal Avenue in Pleasanton, Alameda County. The site is unpaved, underutilized and vacant. The SFPUC intends to sell the property "as is." The revenue from the sale will support the SFPUC in its pursuit of its core mission "to provide our customers with high quality, efficient and reliable water, power, and sewer services in a manner that is inclusive of environmental and community interests, and that sustains the resources entrusted to our care." Specifically, the revenue from the property sale will be recognized as miscellaneous revenue for the Water Enterprise and will be closed out to Fund Balance at the end of the fiscal year. The Fund Balance supports the Enterprise's core mission and provides reserves required under the debt (bonds) indenture.

The site is not located in the City of County of San Francisco and is not subject to the San Francisco Zoning Code.

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

On October 4, 2016, it was determined that the sale of land is not a project under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in the environment.

GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

The Project is the City's proposed sale of a 3.18 acre property at 401 & 403 Old Bernal Avenue in Pleasanton, Alameda County. 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:

Note: General Plan Objectives are shown in **BOLD UPPER CASE** font; Policies are in **Bold** font; staff comments are in *italic* font.

ENVIRONMENTAL PROTECTION ELEMENT

OBJECTIVE 5

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

POLICY 5.1 - Maintain an adequate water distribution system within San Francisco.

POLICY 5.2 - Exercise controls over development to correspond to the capabilities of the water supply and distribution system.

POLICY 5.3 - Ensure water purity.

The revenue from the property sale will be recognized as miscellaneous revenue for the Water Enterprise and will be closed out to Fund Balance at the end of the fiscal year. The Fund Balance supports the Enterprise's core mission and provides reserves required under the debt (bonds) indenture. As the revenue supports the Water Enterprise, the revenues will allow the SFPUC to continue to manage a

complex water supply system—one that stretches from the Sierra to the City. The revenues will allow the SFPUC, including the Water Enterprise, to achieve the objective and policies stated above.

COMMUNITY SAFETY ELEMENT

OBJECTIVE 2

BE PREPARED FOR THE ONSET OF DISASTER BY PROVIDING PUBLIC EDUCATION AND TRAINING ABOUT EARTHQUAKES AND OTHER NATURAL AND MAN-MADE DISASTERS, BY READYING THE CITY'S INFRASTRUCTURE, AND BY ENSURING THE NECESSARY COORDINATION IS IN PLACE FOR A READY RESPONSE.

POLICY 2.8 – Ensure potable water is available in an emergency.

POLICY 2.9 – Develop agreements with private facilities to ensure immediate supply needs can be met.

The proposed sale is vacant land and will be sold as is. Funds from the sale will be applied to projects that meet the core mission of the SFPUC, meeting the core mission will help with the City's earthquake preparedness.

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.

The proposed sale is located outside of the City of San Francisco and is currently vacant and therefore would have no impact on San Francisco retail uses or resident employment.

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

The proposed sale is located outside of the City of San Francisco and would have no adverse effect on the City's housing stock or on neighborhood character. The existing housing and neighborhood character will be not be negatively affected

3. That the City's supply of affordable housing be preserved and enhanced.
The proposed sale would have no adverse effect on the City's supply of affordable housing.

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

The proposed sale is located outside of the City of San Francisco would not result in commuter traffic impeding MUNI's transit service, overburdening the streets or altering current neighborhood parking.

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

The proposed sale would not adversely affect the industrial and service sectors; it would not displace any industrial uses or occupy land designated for such uses.

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

The proposed sale is the as-is sale of unimproved land. Its sale would have no negative impact on earthquake preparedness, injury, or loss of life.

7. That landmarks and historic buildings be preserved.

The proposed sale would not affect any landmarks or historic buildings.

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

The proposed sale would not cast any shadows on parks or open spaces nor impact any vistas.

RECOMMENDATION:

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

GENERAL PLAN REFERRAL

CASE NO. 2016-012319GPR
SALE OF PROPERTY ON OLD BERNAL AVENUE
(PLEASANTON, ALAMEDA COUNTY)

Attachments:

Location Map – 401&403 Old Bernal Avenue
Site Photos

cc: Janice Levy, SFPUC Real Estate Division ilevy@sfgwater.org

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PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 16-0263

WHEREAS, The City and County of San Francisco (City) owns certain real property presently under the jurisdiction of the San Francisco Public Utilities Commission (SFPUC) at 401 and 403 Old Bernal Avenue in Pleasanton, California (Property); and

WHEREAS, The SFPUC executive management deemed the Property to be non-essential to the SFPUC's current and future utility needs of each enterprise; and

WHEREAS, The SFPUC entered into an agreement dated March 4, 2016 with Colliers International CA, Inc. (Broker) for real estate brokerage services; and

WHEREAS, The SFPUC complied with reporting, notice and other requirements of the California Surplus Property Statute (California Government Code Sections 54220 through 54233) and the San Francisco Surplus Property Ordinance (San Francisco Administrative Code Chapter 23A) with respect to the sale of the Property; and

WHEREAS, The Broker advertised the Property on commercial real estate platforms for many weeks, posted signage on the Property, and produced offering memoranda and other marketing materials; and

WHEREAS, The SFPUC, through the Broker, solicited bids from prospective Property buyers between October 12, 2016 and October 27, 2016; and

WHEREAS, Pleasanton submitted the highest and best responsible offer to purchase the Property for \$4.2 million; and

WHEREAS, SFPUC staff and Pleasanton staff have agreed to the terms and conditions of a Purchase and Sale Agreement (Agreement), subject to the approval of this Commission, the Board of Supervisors and Mayor, and Pleasanton's City Council, tentatively scheduled for December 20, 2016; and

WHEREAS, This action would not fall within the definition of "project" under California Environmental Quality Act Guidelines Section 15378 because the sale of the underutilized property would not result in a direct physical change in the environment; now, therefore, be it

RESOLVED, That this Commission hereby finds that the Property is surplus to the SFPUC's utility needs and authorizes the General Manager of the SFPUC and/or City's Director of Property to seek approval of the Agreement by City's Board of Supervisors and the Mayor, and upon such approval, to execute the Agreement in substantially the same form presented to this Commission; and, be it

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

FURTHER RESOLVED, That this Commission hereby approves the terms and conditions of this Agreement; and be it

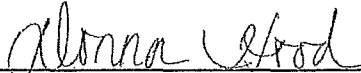
FURTHER RESOLVED, That this Commission hereby authorizes and directs the SFPUC's General Manager to negotiate and execute the Agreement, subject to the approval of the Board of Supervisors and Mayor; and be it

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

FURTHER RESOLVED, That, upon approval by City's Board of Supervisors and the Mayor, this Commission authorizes the Director of Property and/or the SFPUC General Manager to execute and deliver a quitclaim deed conveying the Property to Pleasanton; and be it

FURTHER RESOLVED, That upon approval by City's Board of Supervisors and the Mayor, this Commission authorizes the Director of Property and/or the General Manager of the SFPUC to take any and all other steps they, in consultation with the City Attorney, deem necessary and advisable to effectuate the purpose and intent of this Resolution.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of December 13, 2016.



Secretary, Public Utilities Commission



San Francisco
Water & Sewer
Services of the San Francisco Public Utilities Commission

SFPUC Real Estate Services Division
525 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102
T 415.487.5210

January 12, 2017

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

Re: **Purchase and Sale Agreement – Sale of 401 and 403 Old Bernal Avenue, Pleasanton, California – City of Pleasanton - \$4,200,000**

Dear Board Members:

The City and County of San Francisco, through its Public Utilities Commission (SFPUC), has jurisdiction over the above-referenced property (Property). This letter describes the SFPUC's efforts to market and solicit bids to sell the Property.

- In a written statement dated December 18, 2015, the Assistant General Managers for each of the Water, Wastewater and Power Enterprises declared that the Property is not essential to the SFPUC's utility needs.
- On the SFPUC's behalf, the City's Real Estate Division (City RED) issued a request for bids from commercial real estate brokers to sell the Property and five other underutilized properties under the SFPUC's jurisdiction. The SFPUC instructed City RED to select Colliers (Broker) as the lowest responsible bidder. Cities RED negotiated and entered into an agreement with the Broker to market and assist the SFPUC in selling the properties.
- In the first half of 2016, City RED issued the required statutory notices to offer to sell the Property to public entities at fair market value for parks, open space, public housing and schools.
- Concurrently, the Broker marketed the Property for many weeks on commercial real estate platforms, posted signage on the Property, and produced offering memoranda and other marketing materials sent to potential buyers.
- Concurrently, the SFPUC ordered a MAI appraisal to determine the Property's fair market value.
- After statutory notice period expired, the SFPUC, through the Broker, solicited bids from prospective Property buyers between October 12, 2016 and October 27, 2016. The SFPUC received three bids.

Edwin M. Lee
Mayor

Anson Moran
President

Ike Kwon
Vice President

Ann Moller Caen
Commissioner

Francesca Vietor
Commissioner

Vince Courtney
Commissioner

Harlan L. Kelly, Jr.
General Manager



- The City of Pleasanton was the highest responsible bidder at \$4.2 million.
- Thereafter, SFPUC staff and Pleasanton staff agreed to the terms and conditions of a Purchase and Sale Agreement (Agreement), subject to the approval of the SFPUC Commission, the Board of Supervisors and Mayor, and Pleasanton's City Council.
- On December 13, 2016, the SFPUC Commission determined that the Property is no longer required for SFPUC operational needs by Resolution 16-0263, dated December 13, 2016.
- On December 20, 2016, Pleasanton's City Council approved the Agreement.

Please contact me with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rosanna Russell".

Rosanna Russell
Real Estate Director

cc: John Updike, City's Real Estate Division
Jeff Suess, City's Real Estate Director



San Francisco Water

Services of the San Francisco Public Utilities Commission

525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102
T 415.554.3155
F 415.554.3161
TTY 415.554.3488

TO: Angela Calvillo, Clerk of the Board

FROM: John Scarpulla, Policy and Government Affairs

DATE: January 13, 2016

SUBJECT: Purchase and Sale Agreement – Sale of 401 and 403 Old Bernal Avenue, Pleasanton, California – City of Pleasanton - \$4,200,000

Attached please find an original and one copy of a proposed resolution approving and authorizing the execution of a Purchase and Sale Agreement with the City of Pleasanton ("Pleasanton"), for the conveyance by the City and County of San Francisco, acting through the San Francisco Public Utilities Commission (SFPUC), to the City of Pleasanton, consisting of approximately 3.18 acres of real property located at 401 and 403 Old Bernal Avenue, Pleasanton, California for \$4.2 million; adopting findings under the California Environmental Quality Act; adopting findings that the conveyance is consistent with the General Plan and the priority policies of Planning Code Section 101.1; and authorizing the Director of Property and/or the SFPUC's General Manager to execute documents, make certain modifications, and take certain actions in furtherance of this Resolution.

The following is a list of accompanying documents (2 sets):

1. Board of Supervisors Resolution
2. SFPUC Resolution No. 16-0263
3. Purchase and Sale Agreement
4. General Plan Referral Letter
5. SFPUC Letter to the Board of Supervisors

Please contact John Scarpulla at (415) 934-5782 if you need additional information on these items.

Edwin M. Lee
Mayor

Francesca Viator
President

Anson Moran
Vice President

Ann Moller Caen
Commissioner

Vince Courtney
Commissioner

Ike Kwon
Commissioner

Harlan L. Kelly, Jr.
General Manager





File #170052
Received in Committee
2/14/17
fn

Services of the San Francisco Public Utilities Commission

SFPUC Sale of Underutilized Property 401 & 403 Old Bernal Avenue, Pleasanton CA

**February 16, 2017
Budget and Finance Committee Hearing**

**Rosanna Russell, Real Estate Director
San Francisco Public Utilities Commission**

2809



Underutilized Property

- The SFPUC is selling underutilized property in order to offset costs for its capital improvement program.
- The SFPUC's Real Estate Services division (RES) has been working with the City's Real Estate Division (RED) to market and solicit bids for underutilized properties.
- RES has accepted offers for two properties, 401 & 403 Old Bernal Avenue, Pleasanton and the Helen Drive Lots, Millbrae



San Francisco
Water
Power
Sewer

401 & 403 Old Bernal Avenue





Property Description

- **Location:** 401 & 403 Old Bernal Avenue, Pleasanton, CA (the “Property”).
- **Current Use:** Vacant Land
- **Size:** 3.18 acres (138,521 square feet)
- **Zoning:** P-Public



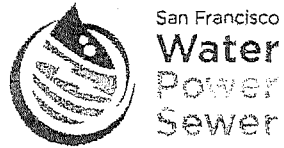
401 & 403 Old Bernal Avenue

- The SFPUC acquired 401 & 403 Old Bernal Avenue, Pleasanton (the “Property”) in 1930.
- The Property was used for groundwater operations until 1949. The Property is the remaining portion of the Pleasanton Wells Property that was sold in 2000.
- On December 13, 2016, the SFPUC Commission declared the Property surplus to the SFPUC’s utility needs.



Real Estate Broker Selection

- On behalf of the SFPUC, RED issued a request for proposal for commercial real estate brokerage services.
- Of the bids received, RED selected Colliers International due to its compliance with the bid terms and low commission rate.
- Colliers International's commission rate is 2.75%.



Compliance with Surplus Property Statutes

- The SFPUC complied with the California Surplus Property Statute and the San Francisco Surplus Property Ordinance.
- On behalf of the SFPUC, RED issued statutory notices to all required public entities (CA Government Code § 54222 and 50079) and housing sponsors (California Government Code § 5422(a)).
- The SFPUC received no letters of interest from housing sponsors or public entities.



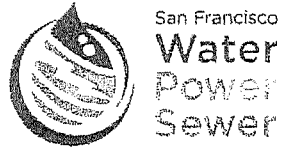
General Plan Conformance and CEQA

- **General Plan Conformance**

- On November 6, 2016, the Planning Department found the sale of the Property consistent with the Eight Priority Policies of the Planning Code.

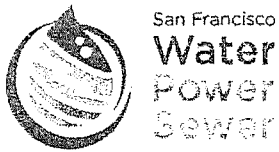
- **CEQA**

- The SFPUC's Bureau of Environmental Management determined that the sale of the Property is not a project under CEQA.



Fair Market Value Determination

- Appraisal
 - On May 6, 2016 the Associated Right of Way Services, an MAI Appraiser, valued the Property at \$4,158,000.
- Appraisal Review
 - On January 12, 2017, CBRE, Inc. reviewed and confirmed the original appraisal valuation.
- The City of Pleasanton was the highest responsible bidder with a \$4.2 million bid.



Bidding Process

- Prior to soliciting formal bids, Colliers International (“Colliers”) prepared marketing materials, placed the Property on commercial real estate websites, and placed signage on the Property for approximately 25 weeks.
- Colliers called for offers between October 12, 2016 and October 27, 2016.
- Colliers received three bids. On November 7, 2016, the SFPUC notified the City of Pleasanton that it was the selected bidder.

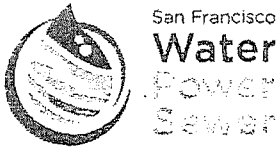


Purchase and Sale Agreement

Terms and Conditions

Purchase Price:	\$4.2 Million
Deposit Amount:	\$100,000
Contingency Period:	60 Days

The Pleasanton City Council approved the Purchase and Sale Agreement on December 20, 2016.



Water Enterprise Revenue

- The Property is an SFPUC wholesale water customer asset.
- The revenue from the sale will be used to support revenue-funded capital programs.
- The SFPUC will save approximately \$5,184 per year in maintenance costs and property taxes on the Property and will reduce its liability as property owner of a vacant lot.