

**Performance Audit**

**of the**

**Alemany Farmers' Market and the Real Estate  
Division in its Capacity as Operator of the Market**

**Prepared for the**

**Board of Supervisors  
of the City and County of San Francisco**

**by the**

**Budget and Legislative Analyst**

**October 13, 2010**

**CITY AND COUNTY OF SAN FRANCISCO  
BOARD OF SUPERVISORS**

**BUDGET AND LEGISLATIVE ANALYST**

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October 13, 2010

Honorable Sophie Maxwell,  
and Members of the Board of Supervisors  
City and County of San Francisco  
Room 244, City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

Dear Supervisor Maxwell and Members of the Board of Supervisors:

The Budget and Legislative Analyst is pleased to submit this *Performance Audit of the Alemany Farmers' Market and the Real Estate Division in its Capacity as Operator of the Market*. In response to a motion adopted by the Board of Supervisors on March 9, 2010 (Motion No. 10-40), the Budget and Legislative Analyst conducted this performance audit, pursuant to the Board of Supervisors powers of inquiry as defined in Charter Section 16.114 and in accordance with U.S. Government Accountability Office (GAO) standards, as detailed in the Introduction to the report.

The purpose of the audit has been to evaluate the current finances and management of the Alemany Farmers' Market. The audit scope included (1) an evaluation of the management of the Alemany Farmers' Market by the Real Estate Division; (2) the finances of the market; (3) market governance; and (4) the market's compliance with applicable laws, regulations, and codes. The Director of Real Estate has provided a written response to the performance audit which is attached to this report.

The audit report findings are as follows:

**The Alemany Farmers' Market does not have a well-defined mission or consistent management.** The Alemany Farmers' Market lacks a comprehensive purpose statement. In the absence of a well-defined purpose or mission, the Alemany Farmers' Market has not logically come under the jurisdiction of a specific City agency. As a result, four different City departments have operated and managed the Alemany Farmers' Market over the past seven years, contributing to the continuation of numerous problems with security and parking at 100 Alemany Boulevard. The Real Estate Division has had difficulty recruiting and retaining qualified market managers, which has contributed to a

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lack of consistent management. Further, San Francisco Administrative Code Chapter 9A, which governs the establishment, finances, and operations and management of City operated farmers' markets, is outdated and is in serious need of significant revisions. Specifically, Chapter 9A has at least 10 references establishing the Agricultural Commissioner as the official in-charge of operating the farmers' market even though the market is no longer operated by the Agricultural Commissioner.

**The Real Estate Division has not adequately planned for facilities and maintenance or revenue enhancement.** Currently and at least over the last three fiscal years, the Alemany Farmers' Market together with the Alemany Flea Market has collected sufficient revenues to cover the basic annual costs of managing and operating the markets with any excess revenues transferred to the City's General Fund. However, the Real Estate Division does not have a formal process to ensure that long term needs are sufficiently managed and financed. While there is a scope of work for certain improvements, there is no formal facilities and maintenance plan, including cost estimates or a ranking of maintenance priorities for the Alemany Farmers' Market. The facilities at 100 Alemany Boulevard, originally built in the 1940s, are deteriorating and in need of rehabilitation or replacement. Additionally, the Real Estate Division has not developed plans to enhance revenues of the Alemany Farmers' Market or, more generally, of the 100 Alemany Boulevard property.

**The Alemany Farmers' Market needs a more effective governance structure.** The existing market rules and regulations need to be reviewed and revised in order to ensure that the rules and regulations (1) comply with State and City Administrative Codes; (2) include several necessary policies that are commonly utilized by other market operators such as procedures for assigning stalls; and (3) define a process and set criteria for selecting food vendors. Additionally, although the City's Administrative Code requires the appointment of an advisory committee consisting of food vendors as well as farmers, the Alemany Farmers' Market has not had an advisory committee for the last 14 years.

**The Alemany Farmers' Market has not consistently complied with State and City Administrative Codes.** Since 2007, the Alemany Farmers' Market has been cited by the State Department of Food and Agriculture and the County Agricultural Commissioner for noncompliance with code requirements, such as certified farmers selling products not listed on their certificates or not of their own production; farmers' selling organic products not registered with the State; and other various acts of noncompliance. Further, during a site visit in August 2010, Budget and Legislative Analyst staff found potential incidents of noncompliance with State regulations, such as not posting a farmers' certificate at the point of sale or displaying prices for products. The Real Estate Division does not provide regular, formal training for market managers and other staff members who assist at the market. The Real Estate Division has several tools, such as check lists and market reports, available to staff to ensure that all farmers and food vendors are

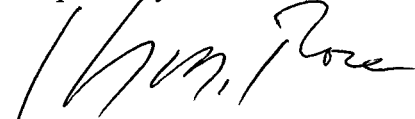
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compliant with State and local laws. These tools should be improved and additional tools should be developed and utilized to strengthen the Division's compliance program. Additionally, the County Agricultural Commissioner, the State Department of Food and Agriculture, and the San Francisco Department of Public Health reported that they have not been able to inspect the Alemany Farmers' Market as frequently as they would like to or as required by State regulations.

The Executive Summary, which follows this transmittal letter, for our *Performance Audit of the Alemany Farmers' Market and the Real Estate Division in its Capacity as Operator of the Market*, provides more details of the Budget and Legislative Analyst's four findings and 20 recommendations.

We would like to thank the Director of Real Estate and her staff, the Agricultural Commissioner, and Department of Public Health-Environmental Health management and their staff for their cooperation during this performance audit.

Respectfully submitted,



Harvey M. Rose  
Budget and Legislative Analyst

cc: President Chiu	Supervisor Mirkarimi
Supervisor Alioto-Pier	Clerk of the Board
Supervisor Avalos	Cheryl Adams
Supervisor Campos	Greg Wagner
Supervisor Chu	Controller
Supervisor Daly	Director, Real Estate Division
Supervisor Dufty	Agricultural Commissioner
Supervisor Elsbernd	Director, Environmental Health Regulatory
Supervisor Mar	Programs

# **Management Audit of the Alemany Farmers' Market and the Real Estate Division in its Capacity as Operator of the Market**

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# **Executive Summary**

## **Overview: The Alemany Farmers' Market and the Real Estate Division**

The Alemany Farmers' Market, the first farmers' market established in California, was founded in San Francisco on August 12, 1943 at Duboce Avenue and Market Street. The market was established as a wartime measure to provide an outlet for surplus and distressed crops from neighboring counties. On August 7, 1947, the market moved to its present location at 100 Alemany Boulevard. The market currently features approximately 110 agricultural producers and 20 food and beverage vendors each week.

The Alemany Farmers' Market is currently operated by the Real Estate Division of the General Services Agency- Department of Administrative Services. The Alemany Farmers' Market is one of three markets operated by the Real Estate Division. The other markets operated by the Real Estate Division include the Alemany Flea Market, which takes place on Sundays at 100 Alemany Boulevard, and the United Nations Plaza Gift Gallery, which occurs three days a week at United Nations Plaza.

## **The Alemany Farmers' Market Does Not Have a Well-Defined Mission or Consistent Management**

In the absence of a well-defined purpose or mission, the Alemany Farmers' Market has not logically come under the jurisdiction of a specific City agency. As a result, responsibility for operating the Alemany Farmers' Market has transferred among four departments in seven years, including the County Agricultural Commissioner, the General Services Agency's Property Management Division, the Convention Facilities Department, and the General Services Agency's Real Estate Division, which assumed responsibility in 2007. Frequent transfer of responsibility among City departments has contributed to inconsistent management oversight of the Alemany Farmers' Market.

## **The City Lacks a Comprehensive Statement on the Purpose of the Alemany Farmers' Market**

The Alemany Farmers' Market lacks a comprehensive purpose statement. The Alemany Farmers' Market was established in 1943 primarily as a means for providing local farmers with a venue for selling fresh produce directly to consumers not only at prices above wholesale but also at prices lower than the normal consumer retail prices. The Alemany Farmers' Market has also provided a method for farmers to sell excess produce that otherwise would have rotted due to federal restrictions relating to World War II. Over 60 years later, the general purpose of the market, as managed by the Real Estate Division, is essentially unchanged.

While the market has a long and successful history and continues to enjoy popular support among local residents, there has been limited public or City dialogue in recent years on the purpose of the market and how it can help fulfill broader citywide objectives relating to public health and development of small businesses, among others.

### **The Alemany Farmers' Market has Lacked Consistent Management Oversight**

No one City department has continuously operated and managed the Alemany Farmers' Market over the past seven years, contributing to the continuation of numerous problems with security and parking at 100 Alemany Boulevard. The Department of Public Works (DPW) has jurisdiction over portions of the property and the Public Utilities Commission (PUC) owns two adjacent properties. The Real Estate Division has not yet worked out agreements with the PUC or DPW to allow for the construction of a perimeter fence to protect the property from vandalism and illegal access or to improve parking and mitigate congestion on Saturday and Sunday during Alemany Farmers' Market and Flea Market hours.

The Real Estate Division has had difficulty recruiting and retaining qualified market managers, further contributing to a lack of consistent management. This difficulty is partially due to the unique nature, demands, and knowledge required to operate the Alemany Farmers' Market and the Alemany Flea Market. In the last three years, the farmers' market has on two occasions lacked a full time Market Manager for at least nine months. Further, the Real Estate Division has not been able to recruit individuals with either experience in operating a farmers' market or with extensive knowledge of agricultural and health and safety regulatory requirements.

### **The City's Administrative Code Section Pertaining to the Alemany Farmers' Market is Outdated**

San Francisco Administrative Code Chapter 9A, which governs the establishment, finances, and operations and management of City operated farmers' markets, is outdated and is in serious need of significant revisions. Most sections have not been updated in over ten years. Chapter 9A has more than a dozen references establishing the Agricultural Commissioner as the official in-charge of operating the farmers' market even though the market is no longer run by the Agricultural Commissioner. Under Administrative Code Chapter 9A, the Agricultural Commissioner is responsible for administering the operation of farmers' markets, appointing the markets' advisory committees, recommending stall fees, setting days and hours of operation, creating market rules and regulations, and other responsibilities. Administrative Code Chapter 9A also creates a conflict of interest for the Agricultural Commissioner, who has regulatory responsibility for the farmers' markets, including protecting public health and safety by enforcing agricultural laws and regulations. Therefore, the Board of Supervisors should amend Administrative Code Chapter 9A to transfer farmers' market management and operating responsibilities from the Agricultural Commissioner to the Director of Real Estate.

## The Real Estate Division Has Not Adequately Planned for Facilities Maintenance and Revenue Enhancement

Currently and at least over the last three fiscal years, the Alemany Farmers' Market together with the Alemany Flea Market has collected sufficient revenues to cover the basic annual costs of managing and operating the markets with excess revenues transferred to the City's General Fund. At the same time, the Real Estate Division does not have a formal process to ensure long term needs are sufficiently managed and financed. For example, as discussed below, the Alemany Farmers' Market requires significant capital repairs but the Real Estate Division has not developed a long term plan or cost estimates for these repairs.

The Real Estate Division jointly manages the Alemany Farmers' Market and Alemany Flea Market, which are both located at 100 Alemany Boulevard, and combines expenditures for managing the Markets in the City's financial system, FAMIS. As shown in Table 1 below, the Alemany Farmers' Market and Alemany Flea Market had combined net revenues of \$424,243 in FY 2009-10, which were transferred to the General Fund.

**Table 1**  
**Alemany Market Revenues and Expenses**  
**FY 2009-10**

	Alemany Farmers' Market	Alemany Flea Market	Combined Alemany Markets
<b>Revenues</b>	\$336,260	\$423,305	\$759,565
<b>Expenses</b>	167,661	167,661	335,322
<b>Net Revenues</b>	<b>\$168,599</b>	<b>\$255,644</b>	<b>\$424,243</b>

Source: Real Estate Division records and FAMIS

## The Real Estate Division Has Not Adequately Planned for the Longer Term Operating and Capital Needs of the Alemany Farmers' Market

The Real Estate Division has not engaged in long term financial planning of the markets that are operated at 100 Alemany Boulevard. Specifically, while there is a scope of work for certain improvements, there is no formal facilities and maintenance plan, including cost estimates or a ranking of maintenance priorities, for 100 Alemany Boulevard. Further, the City's 10 year Capital Plan makes reference to the Alemany Farmers' Market as needing significant capital improvements in order to serve as an emergency staging site, but these needs are not outlined in any formal plans. As a result, the Alemany Farmers' Market facilities are deteriorating and in need of significant repairs, as discussed below.

Unlike the other San Francisco farmers' markets shown in Table 2.6 on page 24 of this report, the Alemany Farmers' Market has permanent market facilities. The Alemany Farmers' Market's permanent facilities include two large roofed concrete stall structures, a building housing the market office and public restrooms, and a large paved area for pedestrians, food trucks, farmer trucks, additional farmer stalls, and customer parking. The facilities at 100 Alemany Boulevard,



originally built in the 1940s, are deteriorating and in need of rehabilitation or replacement. Of particular concern to staff are the roofs of the stall structures, a piece of which broke off and fell to the ground on a recent Sunday afternoon. Staff also noted problems with water drainage on the site during rainstorms. In addition, during a site visit the Budget and Legislative Analyst noted that the market has poor signage, limited parking during peak hours, and unabated blights such as graffiti and pigeon droppings. Further, the property can not be secured during off hours as the site lacks fully enclosing perimeter fencing, which has allowed individuals to enter the property at night for reckless and loud vehicular activities. While funds have been allocated in recent years for some maintenance and repair of the facilities, the Real Estate Division has not developed a plan to prioritize and fund the Alemany Farmers' Market extensive capital needs.

### **Little Formal Planning for Revenue Enhancement**

The Real Estate Division has not developed plans to enhance revenues of the Alemany Farmers' Market or, more generally, of the 100 Alemany Boulevard property. Despite its location at the intersection of two major freeways and its lack of use for much of the year, the Real Estate Division has not found alternative weekday uses for 100 Alemany Boulevard. Currently, the City and County's Sealer of Weights and Measures uses the property during daytime hours Monday through Friday from June 1 through October 30 to test and certify taxi meters in accordance with state regulations, and in exchange waives the \$500 fee that would be charged annually to the Real Estate Division to operate the farmers' market. The property is otherwise vacant. Although Real Estate Division management report that several revenue producing ideas, such as mobile vending and commuter parking, have been considered, none have yet proceeded past the initial planning stage due to doubts concerning their financial viability.

Additionally, the Administrative Code does not require nor has the Real Estate Division conducted regular reviews of the Alemany Farmers' Market fees, which have not been increased in more than six years.

Further, while a formal Request for Proposals (RFP) process brought in additional food and beverage vendors in FY 2009-10, the food and beverage vendor stalls are not actively managed to allow for new vendors to enter the market when existing vendors repeatedly fail to attend or officially end their relationship with the market. For example, since September 2009, five of 24 food and beverage vendors have given official notice to terminate their agreement with the City. While Real Estate Division management say they have approached all other vendors that responded to the RFP, no steps have been taken to permit other vendors who have expressed interest in selling food and beverages at 100 Alemany Boulevard, but who did not respond to the RFP.

### **The Alemany Farmers' Market Needs a More Effective Governance Structure**

The governance of the Alemany Farmers' Market is inadequate. Specifically, the market rules and regulations and vendor participation in the management operations of the market need enhancement. The existing market rules and regulations need to be reviewed and revised in order

to ensure that the rules and regulations (1) comply with State and City Administrative Codes; (2) include several necessary policies that are commonly utilized by other market operators such as procedures for assigning stalls; and (3) define a process and set criteria for selecting food vendors. Although the Real Estate Division issued an RFP in 2008 to select food vendors for the Alemany Farmers' Market based on experience, business plan, and other criteria, the market rules and regulations have no reference to these criteria.

Additionally, although the City's Administrative Code requires the appointment of an advisory committee consisting of food vendors and farmers, the Alemany Farmers' Market has not had an advisory committee in 14 years.

## **Market Rules and Regulations Need to be Revised and Updated**

The existing market rules and regulations are not consistent with the State and City Administrative Codes. Specifically, the State Administrative Code requires certified farmers' market rules and regulations to include criteria pertaining to (a) the admission of farmers into the market, (b) admission of agricultural products into the market, and (c) removal of a farmer from the market. While the City's Administrative Code includes such criteria, it is not currently included in the Alemany Farmers' Market rules and regulations.

The Alemany Farmers' Market rules and regulations do not contain several policies that are included in certified farmers' market rules and regulations operated by other cities or non profits. For example, although the Real Estate Division has informal practices to assign stalls to food vendors and farmers, and to enact discipline or consider grievances, these practices are neither formally included in the Alemany Farmers' Market rules and regulations nor implemented consistently. For example, when submitting a grievance some farmers and food vendors speak to the market manager, some farmers and food vendors go directly to Real Estate Division management, and some farmers and food vendors have resorted to petitioning or speaking to members of the Board of Supervisors, even though the Board of Supervisors is not mentioned in the Administrative Code or the market rules and regulations as part of the Alemany Farmers' Market governance structure for appeals and grievances.

Further, neither the City's Administrative Code nor the market rules and regulations set criteria for the admission of food vendors to the Alemany Farmers Market. The Real Estate Division selected 20 food vendors in 2008 through an RFP, based on experience, business plan, operating plan, and rent proposal, with the selected vendors paying rents ranging from \$35 to \$120 per day for stalls of the same size. In contrast, the city of Santa Monica's food vendor selection process establishes fixed stall rents ranging from \$100 to \$150 per day, depending on stall size, and selects food vendors based on local business development, locally-grown and organic foods, environmental sustainability, and variety. The Board of Supervisors should consider amending the Administrative Code to adopt standard food vendor stall fees at the Alemany Farmers' Market. Standardized fees would create more equitable conditions for food vendors renting comparable stalls. Also, future RFPs for food and beverage vendors at the Alemany Farmers Market should include food vendor criteria that would ensure that food vendors on public property are consistent with other City policies, such as promoting healthy foods and fostering small local businesses.

## **The Real Estate Division Has Not Appointed an Advisory Committee for the Alemany Farmers' Market**

Although the City's Administrative Code requires the appointment of an advisory committee consisting of food vendors as well as farmers, the Alemany Farmers' Market has not had an advisory committee for the last 14 years. Farmers' markets managed by other cities, including the cities of Palo Alto and San Rafael, have a Board or advisory committee with farmer and/or vendor membership. According to interviews with farmers and food vendors from the Alemany Farmers' Market and other farmers' markets, having an advisory meeting would be helpful in the operation of the market, and can result in improved market quality. Given the changed character of the Alemany Farmers' Market, which now includes several food vendors as well as farmers, appointing an advisory committee could improve the lines of communication between market farmers and food vendors and Real Estate Division management.

## **The Alemany Farmers' Market Has Not Consistently Complied with the State and City Administrative Codes**

Since 2007 the Alemany Farmers' Market has been cited by the State Department of Food and Agriculture and the County Agricultural Commissioner for noncompliance with code requirements, such as certified farmers selling products not listed on their certificates or not of their own production; farmers' selling organic products not registered with the State; and other acts of noncompliance.

In October 2007 and March 2008, the County Agricultural Commissioner issued Notices of Noncompliance to the Real Estate Division for Alemany Farmers' Market violations of certain State regulations. While the Real Estate Division was not assessed financial penalties, the County Agricultural Commissioner warned the Real Estate Division that continued noncompliance could result in the non-issuance of future Certified Farmers' Market Certificates. Additionally, during its most recent inspection in October 2008, the State Department of Food and Agriculture noted some of the Alemany Farmers' Markets' deficiencies, including food and beverage vendors located in the middle of a certified farmers' market area; farmers improperly labeling food containers for consumers; farmers' certificates not posted; and farmers selling the products of other farmers without a second certificate. However, the State Department of Food and Agriculture did not issue any notices of violations.

As a result of these inspections, the Real Estate Division recognized problems in market management and moved to correct the violations cited in the Notices of Noncompliance. Subsequent inspections found that previous violations were corrected.

During a site visit in August 2010, the Budget and Legislative Analyst found potential incidents of noncompliance with State regulations, including farmers (a) not posting a farmers' certificate at the point of sale; (b) not displaying prices for products; (c) using weights and scales without a current seal from the County Weights and Measures Program<sup>1</sup>; (d) storing food less than six

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<sup>1</sup> The County Weights and Measures Program is managed by the Agricultural Commissioner and is housed in the Environmental Health Section of the Department of Public Health.

inches above the ground; and (e) not preparing and distributing food samples in accordance with State Health and Safety Code. For example, we noted that disposable gloves were not used when cutting food samples and/or samples were not stored in clean, covered containers or distributed with tongs.

### **Real Estate Division Staff Have Inadequate Training and Tools to Ensure Compliance with State and Local Regulations**

The Real Estate Division does not provide regular, formal training for market managers and other staff members who assist at the market but do not have specialized knowledge of agriculture or health and safety codes. Currently, new staff members are provided a copy of the regulations and are expected to enforce compliance immediately. The Real Estate Division has received ad hoc trainings from the State Department of Food and Agriculture, but there is no regular training for new market management and staff.

The Real Estate Division has several tools available to staff to ensure that all farmers and food vendors are compliant with State and local laws. However, these tools should be improved and additional tools should be developed and utilized to strengthen the Division's compliance program. These tools include (1) market reports that are not thoroughly completed; (2) a farmer database that does not store an adequate level of information to ensure that farmers are compliant with applicable codes; and (3) checklists that are not comprehensive and/or adequately utilized to promote compliance with applicable State and City codes.

### **Enforcement Agencies Do Not Inspect the Alemany Farmers' Market at the Required Frequency**

The County Agricultural Commissioner, the State Department of Food and Agriculture, and the San Francisco Department of Public Health reported that they have not been able to inspect the Alemany Farmers' Market as frequently as they would like to or as required by State regulations. According to the State Department of Food and Agriculture's Inspection and Compliance Branch, once per quarter, the State conducts random inspections of certified farmers' markets during one full week. With over 500 certified farmers' markets throughout the State, and only five staff members, the State is only able to inspect a few Saturday markets per year, and has only inspected the Alemany Farmers' Market once within the last two years.

Though the County Agricultural Commissioner is required by State law to inspect the Alemany Farmers' Market twice per year, the market has only been inspected twice between January of 2008 and mid-2010, compared to the required five inspections. Similarly, the Department of Public Health, Environmental Health Section is required to inspect the Alemany Farmers' Market twice per year, but has reported not being able to because of inspectors' workload.

## **Report Findings and Recommendations**

The management audit has four findings and 20 recommendations. Implementation of these recommendations should generally be achieved within existing City department resources and result in more efficient management of Alemany Farmers' Market. The City may incur an estimated \$30,000 in new costs to develop a traffic and parking plan for 100 Alemany Boulevard although the Public Utilities Commission, Department of Public Works, and Municipal Transportation Agency should use non-General Fund monies to pay these costs. Also, the Alemany Farmers' Market and Alemany Flea Market currently transfer approximately \$424,000 in net revenues to the General Fund annually. This transfer would be reduced if the Market's facility maintenance and capital repairs were fully funded, although the Real Estate Division has not calculated the actual cost of these repairs. More efficient Alemany Farmers' Market operations and improved facilities should result in increased net revenues through increased farmer and food vendor participation or rents and reduced operating costs. A 12 percent increase in annual Alemany Farmers' and Flea Market net revenues would provide future additional revenues to the General Fund of an estimated \$100,000 per year.

## **The Alemany Farmers' Market Accomplishments**

The Real Estate Division has provided a list of accomplishments, as follows:

- The Alemany Farmers' Market brings fresh fruit and vegetables to thousands of San Francisco residents every week, rain or shine, year around. Market staff strive to attract new, diverse, certified farm commodities to maintain the vibrant offerings. Services to the public are provided in English, Spanish and Chinese
- The Alemany Farmers' Market was one of the first farmers' markets to accept Electronic Benefit Tokens (food stamps) and has successfully established the SNAP/EBT program into the Market by issuing EBT tokens to customers that need them. This program has grown significantly in the last few years and the Market is currently collaborating with the **Campaign For Better Nutrition** to promote and encourage even more EBT usage at the Market, by way of the **Top Off Program**. The **Top Off Program** is an incentive program that allows the Market to issue 5 free tokens to customers buying \$10 or more or 10 free tokens for \$20 or more.
- Staff has also created access to fresh produce for participants in the Women, Infant, Children (WIC) Program, by registering the majority of its farmers and encouraging customers to use their WIC coupons through public outreach and education.
- In 2009, the Real Estate Division successfully issued an RFP, selected, and contracted hot and prepared food vendors for the Market. Currently, 17 diverse food vendors provide delicious food every weekend, and the food trucks provide another attraction for Market customers.

- Also in 2009, Market staff joined forces with Precita Eyes, a local, community-based mural arts organization, to involve the community by designing and painting murals on the market stalls. These murals have refreshed and beautified the Market.
- Staff has enhanced record-keeping by implementing databases to track weekly revenue, attendance of farmers and food vendors, as well as records of certificates, load lists, and other required agricultural permits.
- The Alemany Farmers' Market has increased in General Fund revenue year after year, despite increases in operating expenses and the recent economic downturn.

## **Acknowledgement**

We would like to thank the Director and Assistant Director of Real Estate and their staff for their assistance and cooperation in preparing this report. We would also like to thank the Agricultural Commissioner and representatives from the Department of Public Health, and the San Francisco Public Utilities Commission who provided needed information for this report.

# Introduction

## Purpose and Scope of the Performance Audit

The purpose of this performance audit is to evaluate the Alemany Farmers' Market. In particular, this performance audit evaluates the City and County of San Francisco's (City's) Real Estate Division (Division) in its capacity as operator of the market. The scope of this performance audit covers the overall economy, efficiency, and effectiveness of the Division's management of the Alemany Farmers' Market including market and property management; financial management; compliance with applicable City and State laws, rules, regulations, and Government Code provisions; and the market's governance structure.

## Audit Methodology

The performance audit was conducted in accordance with *Government Auditing Standards, 2007 Revision*, issued by the Comptroller General of the United States, U.S. Government Accountability Office. In accordance with these requirements and standard performance audit practices, we performed the following performance audit procedures:

- Conducted interviews with the Assistant Director of the Real Estate Division and several of his staff members including a Senior Administrative Analyst, a Chief Clerk who serves as the Market Manager, the Division's Finance Officer, and other staff whose work is related to the market. We also spoke with representatives from other City departments including the Agricultural Commissioner, the Department of Public Health- Environmental Health Section, the Public Utilities Commission- Real Estate Services, and the Department of Public Works.
- Reviewed the City codes and regulations, State laws and codes, and other documents governing the Alemany Farmers' Market.
- Conducted field work, including (a) collecting and analyzing staffing data, financial data, governance documents, and other data; (b) evaluating the financial standing of the Alemany Farmers' Market in the context of the Real Estate Division's management of all City operated markets (including the Alemany Flea Market and the United Nations Plaza Gift Gallery Market); (c) evaluating the Real Estate Division's effectiveness in managing the Alemany Farmers' Market including property management and staffing, and the relevancy/appropriateness of the City's Administrative Code section pertaining to management of the market; (d) evaluating the Division's compliance with applicable State and City laws, regulations and codes including a site visit to the market by the audit team; and (e) analyzing the market's governance structure including the communication channels between vendors and market management, processes for ensuring vendors and producers follow market rules.

- Prepared a draft report based on analysis of the information and data collected, containing our initial findings, conclusions and recommendations, and submitted the draft report on September 24, 2010 to the Director of the Real Estate Division and report sections as applicable to representatives from other City departments.
- Conducted an exit conference with the Assistant Director of the Real Estate Division on September 30, 2010, and discussed report findings and recommendations applicable to other City departments with representatives from the respective departments. We revised the draft report based on exit conference discussions and new information provided by the Assistant Director of the Real Estate Division and other City departments, and submitted the final draft report to the Director of the Real Estate Division on October 5, 2010. The final report was submitted to the Board of Supervisors on October 13, 2010.

## **The Alemany Farmers' Market**

The Alemany Farmers' Market, the first farmers' market established in California, was founded in San Francisco on August 12, 1943 at Duboce Avenue and Market Street. The market was established as a wartime measure to provide an outlet for surplus and distressed crops from neighboring counties. On August 7, 1947, the market moved to its present location at 100 Alemany Boulevard. The market currently features approximately 110 agricultural producers and 20 food and beverage vendors each week.

## **The Real Estate Division**

The Alemany Farmers' Market is currently operated by the Real Estate Division of the General Services Agency- Department of Administrative Services. The Alemany Farmers' Market is one of five markets operated by the Real Estate Division. The other markets operated by the Real Estate Division include the Alemany Flea Market, which takes place on Sundays at 100 Alemany Boulevard, and the United Nations Plaza Gift Gallery, which occurs three days a week at United Nations Plaza.

In addition to operating the five City-run markets, the Real Estate Division is responsible for (1) the acquisition of all real property required for City purposes; (2) the sale of surplus real property owned by the City; (3) the leasing of property required by various City departments; (4) providing custodial and other operational services for various City departments as well as full service property management services to several City owned buildings; (5) completing market value appraisals or analysis of real property considered for City sale, development or acquisition; and (6) acting as a real estate consultant to Departments, the Mayor, and the Board of Supervisors.

## **State Laws and Codes and Municipal Codes Regulating the Alemany Farmers' Market**

As a certified farmers' market in San Francisco, operated by the City, the Alemany Farmers' Market is regulated by State and local codes. The codes regulate the conditions that facilitate the



sale of agricultural products and prepared foods at farmers' markets while ensuring that products sold are of acceptable quality for public health and that the selling activities are conducted fairly and honestly. These codes include (1) the California Food and Agricultural Code; (2) the California Code of Regulations (the State's Administrative Code); (3) the California Health and Safety Code; and (4) the City Administrative Code.

## **State Codes**

### California Food and Agriculture Code

Under the California Food and Agriculture Code,

- All operators of certified farmers' markets must obtain a certificate from their County's Agricultural Commissioner. The markets are inspected by the Agricultural Commissioner at least once every six months.
- All agricultural producers must obtain certificates from the Agricultural Commissioner in the County where their farm is located.

### California Code of Regulations (Administrative Code)

Under the California Code of Regulations,

- The Direct Marketing section details who may operate a certified farmers' market and how agricultural producers and market operators must be certified.
- Certified agricultural producers must display their certificates and prices, certification and display of organic products, and use of approved weights and scales according to certain requirements.
- The sale of nonagricultural products (such as food and beverages) from within the area designated as a certified farmers' market is prohibited.

### California Health and Safety Code

Under the California Health and Safety Code,

- The requirements for food storage, preparation of food samples, and other sanitary conditions are specified.
- Live animals, birds, or fowl are prohibited within 20 feet of anywhere food is stored or held for sale.
- Permit requirements for the preparation and sale of food and beverages is specified.

## **City Administrative Code**

Under Chapter 9A of the City's Administrative Code,

- City-operated farmers' markets (the Alemany Farmers' Market is currently the only market operated by the City) must comply with State and local codes regulating the sale of products at such markets and be subject to inspections.
- Farmers' markets must accept all forms of payments, including Electronic Benefit Transfer (EBT) cards.
- Other operational requirements are specified, including finances, administration, and governance of the market.

# 1. Market Management

- **The Alemany Farmers' Market was established in 1943 and has been managed and operated by the City at 100 Alemany Boulevard since 1947. City officials have not defined the reasons that the City, rather than a private operator, is operating the Alemany Farmers' Market or how operating the Alemany Farmers' Market supports the City's policies. While the Alemany Farmers' Market's rules and regulations state that the Market provides producers with a direct market outlet at which they can sell at prices normally higher than wholesale, and consumers with an opportunity to buy fresher food at prices normally lower than retail, City officials have not linked operating the Alemany Farmers' Market to the City's policies and programs to promote small businesses such as food vendors, or public health through better nutrition.**
- **In the absence of a well-defined purpose or mission, the Alemany Farmers' Market has not logically come under the jurisdiction of a specific City agency. As a result, responsibility for operating the Alemany Farmers' Market has transferred among four departments in seven years, with the General Services Agency's Real Estate Division assuming responsibility in 2007. Frequent transfer of responsibility among City departments has contributed to inconsistent management oversight of the Alemany Farmers' Market.**
- **The Real Estate Division has had difficulty in recruiting and retaining a Market Manager and in the last three years, the Alemany Farmers' Market has on two occasions lacked a full time Market Manager for several consecutive months. Further, the Real Estate Division has not been able to recruit a Market Manager with specific farmers' market experience or knowledge of agriculture and health and safety regulatory requirements for farmers' markets.**
- **Since no one City department has continuously operated and managed the Alemany Farmers' Market over the past seven years, City departments have been slow to resolve problems with security and parking at 100 Alemany Boulevard. The Department of Public Works (DPW) has jurisdiction over portions of the property and the Public Utilities Commission (PUC) owns two adjacent properties. The Real Estate Division has not yet worked out agreements with the PUC or DPW to allow for the construction of a perimeter fence to protect the property from vandalism and illegal access or to improve parking and mitigate congestion on market days.**
- **Although the Administrative Code section pertaining to the Alemany Farmers' Market assigns responsibility for operating the Market to the Agricultural Commissioner, this position has not operated the Market for several years. The Board of Supervisors should revise the Administrative Code to transfer operating responsibility to the Director of Real Estate.**

The Alemany Farmers' Market has lacked managerial consistency in recent years, partially as a result of the repeated reorganization of market oversight. The Alemany Farmers' Market was established in 1943 and has operated under City management at its current location at 100 Alemany Boulevard since 1947. In the last seven years responsibility for management of the farmers' market, along with the more recently established flea market, has been transferred among four City departments. In FY 2003-04, responsibility for the markets transferred from the Agricultural Commissioner (under the now defunct Department of Consumer Assurance) to the now also defunct Property Management Division of the General Services Agency. In FY 2005-06, responsibility for the markets was transferred to the Convention Facilities Department. Finally, in mid-2007 the Real Estate Division assumed responsibility for the Alemany Farmers' Market and the Alemany Flea Market.

The Alemany Farmers' Market is just one of three markets that are managed by the Real Estate Division. The other two markets are the Alemany Flea Market (operated on Sundays at the same location as the farmers' market) and the United Nations Plaza Gift Gallery, which is operated on Mondays, Thursdays, and Fridays. As shown in Table 1.1 below, the Division currently has seven staff members that spend between 50 and 100 percent of their time on work related to the management and operation of both of the Alemany markets. Generally, these staff members split their time equally between the farmers' market and the flea market. Therefore, the effective amount of full time equivalent (FTE) positions allocated to the farmers' market is 3.15 FTE. As seen in the table, approximately \$350,000 is budgeted in salaries for all of the markets managed and operated by the Real Estate Division in FY 2010-11. The Division spends approximately \$122,000 on salaries for the farmers' market after taking into consideration the number of budgeted positions that are actually filled and the amount of time each filled position spends on work related to managing the Alemany Farmers' Market. This amount does not include the cost of mandatory fringe benefits. In addition to the positions listed in Table 1.1, the market receives a limited amount of oversight and support from managerial positions in the Real Estate Division. These positions include the Division's Finance Officer, the Assistant Director of Real Estate, and the Director of Real Estate.

**Table 1.1**  
**Alemany Farmers' and Flea Market Staffing**  
**FY 2010-11**

Position	FTE	Salary <sup>1</sup>	Filled Positions	Percent of Time Spent on Alemany Markets	Effective Filled FTE for Farmers' Market	Effective Farmers' Market Salary <sup>2</sup>	Notes
Chief Clerk	1.0	\$75,140	1.0	100 % (50% on Farmers' Market)	0.5	\$37,570	This position serves as the Market Manager.
Principal Clerk	2.0	\$131,092	1.0	100 % (50% on Farmers' Market)	0.5	\$32,773	One of these positions is new, but vacant in FY 2010-11.
Principal Clerk	1.0	\$65,546	1.0	50 % (25% on Farmers' Market)	0.25	\$16,386	
Public Service Aide	1.0	\$34,424	1.0	90 % (45% on Farmers' Market)	0.45	\$15,491	
Public Service Trainee	2.0	N/A	2.0	100 % (50% on Farmers' Market)	1.0	N/A	These positions are grant funded.
Custodian	0.9	\$44,998	0.9	100% (50% on Farmers' Market)	0.45	\$20,249	
<b>Total</b>	<b>7.9</b>	<b>\$351,200</b>	<b>6.9</b>		<b>3.15</b>	<b>\$122,469</b>	

Source: Real Estate Division Organization Chart and Staff Interviews

<sup>1</sup> Note: Salary reflects the maximum allowable at the position's top step and does not include mandatory fringe benefits.

<sup>2</sup> Note: Effective Farmers' Market Salary represents the effective amount of actual salary spent on the Alemany Farmers' Market. This figure is calculated using the position's salary amount, amount of filled FTE, and amount of time spent on management of the farmers' market.

## **The City Does Not Have a Comprehensive Statement on the Purpose of the Alemany Farmers' Market**

The City lacks a comprehensive statement or policy stating the purpose of the Alemany Farmers' Market or the reasons for the City to operate the market. Further, the Real Estate Division has no plan outlining the objectives of the market or how the Division manages the market in a way that fulfills broader citywide goals.

### **Market Purpose and Objectives**

The Alemany Farmers' Market lacks a comprehensive purpose statement. The Alemany Farmers' Market was established in 1943 primarily as a means for providing local farmers with a venue for selling fresh produce directly to consumers at a price above wholesale and also lower than the normal consumer retail price. It also provided a way for farmers to sell excess produce that otherwise would have rotted due to federal restrictions relating to World War II. Over 60 years later the general purpose of the market, as managed by the Real Estate Division, is essentially unchanged. While there is no publicly stated purpose or mission statement, the market's rules and regulations adopted in May 2009 state:

This Market is for the benefit of both producers and consumers. It provides producers with a direct market outlet at which they can sell at prices normally higher than wholesale, and consumers with an opportunity to buy fresher food at prices normally lower than retail.

While the market has a long and successful history and continues to enjoy popular support among local residents, there has been no public or City dialogue in recent years on the purpose of the market and how it can help fulfill broader citywide objectives relating to public health and development of small businesses, among others. A review of other farmers' markets throughout California found many have varying iterations of mission/vision statements or statements of intent. For instance, the *Rules, Regulations and Policy Guide* for the Santa Monica Farmers' Markets, operated by the City of Santa Monica, states:

The Santa Monica Certified Farmers Markets (SMFMs) and accompanying programs are committed to promoting healthy eating and sustainable agriculture in California by providing fresh agricultural products direct from small farms to urban customers, thereby building community and preserving California farmland.

As previously mentioned, the Alemany Farmers' Market lacks a mission or vision statement that addresses how the market can be a catalyst for fulfilling broader citywide goals. Generally, the City agencies that have operated the market have focused on the week to week necessities of maintaining a functional market with little attention paid to the greater impacts the market could have on citywide goals and priorities. Further, there could be more outreach to other City departments and agencies to help incorporate their goals into the market. The following are examples of broader citywide goals that could potentially be incorporated into the management of the Alemany Farmers' Market:

- **Small Business Development:** The mission of the Small Business Commission, the Office of Small Business, and the Small Business Assistance Center is to foster, promote, and retain small businesses in the City and County of San Francisco. The Alemany Farmers' Market and Alemany Flea Market play hosts to dozens of small businesses including food and beverage vendors and family farmers. Real Estate Division management should continue to work with the Small Business Assistance Center as they did during the Request for Proposals (RFP) process to select food and beverage vendors to promote small businesses at the markets.
- **Public Health:** As a market primarily of fresh produce, Alemany inherently promotes the public health of the community and is consistent with the Shape Up San Francisco strategic plan, which states that San Francisco residents will have access to affordable health foods.<sup>1</sup> The market is a unique opportunity for the City to promote healthy eating habits and provide public health outreach to the community.
- **Transit First:** A persistent problem at the market has been the availability of parking and associated traffic congestion. The encouragement of public transit use to and from the market could help to alleviate the shortage of parking.
- **Emergency Management Planning:** 100 Alemany Boulevard is cited in the City's Ten Year Capital Plan as a secondary emergency staging site where equipment, supplies and other resources are positioned for use during a disaster or emergency. Additionally, the market presents an opportunity to provide information to the public on emergency preparedness.

### Mission Statement and Performance Measurement

The Real Estate Division should develop a mission statement for the Alemany Farmers' Market, which addresses the broad goals of the market. Further, the Division should implement objectives based on the mission statement and tailor performance measures to assess progress toward meeting the stated objectives. In considering a mission statement, Division staff should incorporate obvious links to citywide priorities such as healthy living/nutrition and the promotion of small businesses. Staff should then consider objectives, based on and consistent with the mission statement, which broadly restate components of the mission statement. For instance, the Division may want to state objectives such as the promotion of small businesses or the promotion of nutrition and healthy eating habits. Finally, Division staff should consider tailoring performance measures to assess progress made toward the stated objectives. Currently, the Real Estate Division maintains two performance measures including: (1) the average stall count for the farmers' market and (2) average stall count for the flea market. Examples of additional effective performance measures could include: (1) the number of food and beverage vendors, based in San Francisco, at the Farmers' Market each year (2) 10 annual events at the market to promote healthy living and/or emergency preparedness and (3) number of health and safety as well as agricultural code violations cited per year.

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<sup>1</sup> The Shape Up San Francisco Coalition is made up of representatives from City departments, including the Department of Public Health, Recreation and Park Department, Office of Economic and Workforce Development, and community based organizations.

## **Administrative Code Section Pertaining to the Alemany Farmers' Market is Outdated**

San Francisco Administrative Code Chapter 9A, which governs the establishment, finances, and operations and management of City operated farmers' markets, is outdated and in need of revisions. Except for one section that was updated in 2004 and three sections that were updated in 2007, it has been more than ten years since Chapter 9A of the Administrative Code was last revised by the Board of Supervisors. Chapter 9A has more than a dozen references to the Agricultural Commissioner. Many of these references establish a role for the Commissioner in the operation of the market that is either outdated or establishes a conflict of interest. The Agricultural Commissioner should not be given the dual roles of regulating the market, which is the position's current and practical role, and operating the market. Specific inappropriate or outdated references include:

- Section 9A.1: Authorizes the Agricultural Commissioner to establish, maintain, and direct one or more farmers' markets.
- Section 9A.3: Provides authority to the Agricultural Commissioner to select a site that is suitable to establish a farmers' market.
- Section 9A.4: Directs the Agricultural Commissioner to administer the operation of each market established under the provisions of Chapter 9A.
- Section 9A.5: Directs the Agricultural Commissioner to appoint an advisory committee and review recommendations for possible implementation.
- Section 9A.7: Provides authority to the Agricultural Commissioner to recommend daily stall fees.
- Section 9A.9: Authorizes the Agricultural Commissioner to make market rules and regulations for the conduct of the market, for the maintenance of sanitary conditions, and for the identification of persons offering products for sale at the market.
- Section 9A.12: Directs the Agricultural Commissioner to set the days and hours of the market.
- Section 9A.13, 9A.14 and 9A.16: Authorizes the Agricultural Commissioner to enter the market premises, permit selling at the market, and suspend permission to sell at the market.
- Section 9A.17: Establishes an appeals process for overruling the Agricultural Commissioner's decision to revoke permission to sell at the market.
- Section 9A.18: Establishes penalties for entering the premises after the Agricultural Commissioner has revoked permission to sell at the market.



The current and practical role of the County Agricultural Commissioner is to protect public health and safety by enforcing agricultural laws and regulations. The Agricultural Commissioner is responsible for issuing, modifying, verifying, and renewing farmers' market certifications for all certified markets and certified market operators in the City and County. The Commissioner also certifies San Francisco-based producers' farms and ensures that producers from outside San Francisco who sell at markets in the City and County are certified by their home counties. The Agricultural Commissioner carries out these responsibilities by reviewing and approving applications for certification of farmers' markets and overseeing an inspection program.

Given the Agricultural Commissioner's legal and regulatory oversight role and that the position is housed in a separate department from the Real Estate Division, it makes little sense for Chapter 9A of the Administrative Code to direct the Commissioner to maintain and operate the Alemany Farmers' Market. The majority of Chapter 9A was written at a time when the Alemany Farmers' Market was operated by the Department of Consumer Assurance, which also housed the Agricultural Commissioner. Since that time the market has been transferred between departments on three occasions and the Agricultural Commissioner function has transferred to the Department of Public Health.

### Needs Assessments

Section 9A.20, added to Chapter 9A of the Administrative Code in February 2007, directs the Agricultural Commissioner to conduct a needs assessment of neighborhoods in San Francisco that could support additional farmers' markets without impacting the viability of locally owned businesses. The section states that the purpose of this needs assessment would be to support low income access to healthy, local produce by low-income San Franciscans, as well as to provide additional markets for regional farmers. Further, the section directs the Agricultural Commissioner to submit the needs assessment annually to the Clerk of the Board of Supervisors. In September 2010 during the course of this audit, the Agricultural Commissioner submitted the 2007 Needs Assessment to the Clerk of the Board. The Agricultural Commissioner has not conducted a Needs Assessment since 2007.

## **Inconsistent Management Oversight**

In the absence of a well-defined purpose or mission, the Alemany Farmers' Market has not logically come under the jurisdiction of a specific City agency. As a result, responsibility for operating the Alemany Farmers' Market has transferred among four departments in seven years. This has contributed to inconsistent management oversight of the Alemany Farmers' Market.

## **Recruitment and Retention of Market Manager Position**

The Real Estate Division has had difficulty recruiting and retaining qualified market managers. This challenge is partially due to the unique nature, demands, and knowledge required to operate the Alemany Farmers' Market and the Alemany Flea Market. In the last three years, the farmers' market has on two occasions lacked a full time Market Manager for several consecutive months. Further, the Real Estate Division has not been able to recruit individuals with experience in

operating a farmers' market or with knowledge of agricultural and health and safety regulatory requirements for farmers' markets.

The Market Manager position is uniquely demanding. The position requires irregular work hours and specific knowledge of agricultural products as well as Federal, State, and local agricultural, health, and other laws and regulations. The Market Manager is responsible for operating two markets every weekend of the year regardless of weather conditions. The Market Manager workweek begins on Fridays with regular work hours in order to prepare for the upcoming weekend. The Market Manager then works two back to back 12 hour days on Saturdays (for the farmers' market) and Sundays (for the flea market) followed by an eight hour day on Mondays wrapping up work from the previous weekend. In addition to unusual and long work hours, a competent market manager must be familiar with agricultural products and the various laws and regulations that govern the sale of such items. For instance, by State law certified farmers are only permitted to sell products for which they have been certified (meaning they grew the products themselves) and only during specified periods during the year when they are considered to be in season. In order to determine whether farmers are following these laws, the Market Manager must be familiar with numerous types and varieties of produce including when they are considered in season. Real Estate Division management should ensure that the Market Manager has sufficient knowledge of such regulations, if not when first hired, then through sufficient training as detailed in Section 4 of this report.

## **Management of Market Property**

Security, parking, and repair and maintenance of facilities have been persistent challenges to managing the 100 Alemany Boulevard property. There is no perimeter fence, making it impossible to secure the property during non-market hours. Although the Real Estate Division has taken some actions that have helped alleviate the inadequate supply of parking spots, more could be done to reduce traffic congestion during peak hours. Further, two adjacent properties owned by the San Francisco Public Utilities Commission could provide for additional parking for market customers. However, the Real Estate Division and the Public Utilities Commission have not been able to come to an agreement on any short term or long term solutions for use of the properties. As a result, one property is used by customers who illegally park while a second sits empty surround by barricades.

### Security

Market staff's inability to secure the 100 Alemany Boulevard property during off-market hours has led to numerous problems. The inability to secure the property has led to illegal dumping; illegal, reckless, and loud late night vehicular activities; defacement of market property; and, other security threats. One challenge that has faced the Real Estate Division in its efforts to secure the property has been the multi-departmental jurisdiction over the property. Although there is no obvious physical evidence at the site, officially there are two streets that run through 100 Alemany Boulevard: the continuation of Ogden Avenue and the continuation of Crescent Avenue. Both streets are officially under the jurisdiction of the Department of Public Works (DPW). After many months of work, the Division has successfully acquired a Planning Department General Plan Referral recommendation to vacate and transfer jurisdiction of the

streets from DPW to the Real Estate Division for use by the Alemany Farmers' Market. Division management anticipates final street vacation and transfer from DPW in the spring of 2011.

To date, the property continues to lack a perimeter fence, thereby allowing individuals to enter the property during off market hours. According to market staff and staff at the Bernal Heights Neighborhood Center, the lack of security has led to individuals using the property at night for reckless and loud vehicular activities. Additionally, Real Estate Division staff members indicate that illegal dumping has occurred multiple times at the property requiring the use of clean up services. A perimeter fence may help prevent these and other security threats to the property.

### Parking and Traffic

Parking for customer automobiles and the associated traffic congestion has been a persistent problem at the Alemany Farmers' Market. While Real Estate Division management has taken some actions, such as relocating the food and beverage vendors, which have resulted in a slight increase in parking spots, more could be done to increase the supply of parking or reduce the demand for parking. In particular, there are two adjacent properties, owned by the San Francisco Public Utilities Commission (PUC), adjacent to 100 Alemany Boulevard that could provide for additional parking spaces.

While there has been some discussion between the Real Estate Division and the PUC, the two agencies have not been able to come to an agreement on either leasing the land to the Real Estate Division or on a jurisdictional transfer to the Division. The major barrier appears to be how the Real Estate Division can properly compensate the PUC for jurisdictional transfer of the properties, which were appraised in 2008 at approximately \$2.6 million. A disagreement over responsibility for improvements of the properties appears to be a barrier to leasing the land. While additional parking might not be the best use of the land, the Real Estate Division should continue to work with the PUC and other stakeholders to alleviate the traffic congestion and lack of parking.

Little has been done to encourage the use of public transportation to the market. A greater emphasis on public transportation options on the Division's website as well as at the market could potentially lessen the demand for parking at the market site.

### Repair and Maintenance

Repair and maintenance of aging facilities at 100 Alemany Boulevard continue to present a problem to managing the farmers' market. As discussed in greater detail in Section 2, the facilities at 100 Alemany Boulevard were first built in the 1940s and have recently shown signs of disrepair, including a piece of a stall roof that fell off during a recent Sunday afternoon. See Section 2 for further details on repair and maintenance of the facilities at the Alemany Farmers' Market.

## Conclusion

The Real Estate Division lacks a comprehensive vision, overall purpose, and objectives for the Alemany Farmers' Market mainly due to its focus on managing the week to week demands of the market. In addition, little thought has been put into how the market can be used to support broader citywide goals such as small business development and public health. A formal mission statement including measurable objectives for the market could provide a powerful tool for Division management and staff in making decisions affecting the market.

The City's Administrative Code sections pertaining to the management and operations of the Alemany Farmers' Market do not reflect the current management structure or the inherent conflict of interest in placing responsibility for operating the farmers' market under the Agricultural Commissioner.

The Real Estate Division has had difficulty recruiting and retaining qualified market managers due to the unique nature, demands, and knowledge required to operate the Alemany Farmers' Market.

## Recommendations

The Director of Real Estate should:

- 1.1 Develop a mission statement for the market with the input of stakeholders including the Agricultural Commissioner, Director of Environmental Health, and the Executive Director of the Office of Small Business.
- 1.2 Develop new performance measures consistent with the proposed Alemany Farmers' Market mission statement and objectives.
- 1.3 Develop a security plan for 100 Alemany Boulevard.
- 1.4 Develop a parking and traffic plan for 100 Alemany Boulevard in conjunction with the San Francisco Municipal Transportation Agency and neighborhood representatives that include discussions with the San Francisco Public Utilities Commission Director of Real Estate Services on the best use of the two adjacent properties owned by the PUC.

The Board of Supervisors should:

- 1.5 Revise Administrative Code Chapter 9A to transfer official management and operating responsibilities from the Agricultural Commissioner to the Director of Real Estate.
- 1.6 Direct the Agricultural Commissioner to deliver a 2010 farmers' market needs assessment to the Clerk of the Board of Supervisors.

## **Costs and Benefits**

Implementation of most recommendations should be accomplished using existing resources. However, initiating a parking and traffic study may cost approximately \$30,000. Since the low supply of parking and associated traffic congestion affect property owned or managed by other agencies such as Caltrans, the San Francisco Municipal Transportation Agency, and the San Francisco Public Utilities Commission, it might be possible to acquire non-General Fund support for a parking and traffic study. The benefits include having a clear mission/purpose for the market and having a plan on how the Real Estate Division can improve the market so that it helps support broader citywide goals. Establishing performance measures will provide a tool for the Real Estate Division management and the Market Manager to gauge progress toward established goals and make informed decisions on the management of the market. Making revisions to the Market Manager classification should enhance the Division's ability to recruit and retain a qualified manager. Further negotiations could bring about an agreement that would enable the Real Estate Division to expand the supply of parking for the market. A revision of Chapter 9A of the Administrative Code would eliminate language that is out of date and creates a conflict of interest for the Agricultural Commissioner. Directing the Agricultural Commissioner to deliver a needs assessment on farmers' markets would inform the Board of Supervisors and other interested parties in the City of underserved neighborhoods that could benefit from City support and encouragement of new markets.

## 2. Market Finances

- **The Alemany Farmers' Market and Alemany Flea Market operate jointly at 100 Alemany Boulevard, with shared facilities, revenues, and expenses. The markets generate revenues from vendor stall fees. Revenues that exceed the markets' operating costs are transferred to the General Fund, with a transfer of \$424,243 in FY 2009-10.**
- **The Real Estate Division has not engaged in long term financial planning for the Alemany Farmers' and Flea Markets. Specifically, while there is a scope of work for certain improvements, there is no formal facilities and maintenance plan, including cost estimates or a ranking of maintenance priorities. Further, the City's 10 year Capital Plan makes reference to the Alemany Farmers' Market as needing significant capital improvements in order to serve as an emergency staging site, but these needs are not outlined in any formal plans.**
- **Since FY 2007-08 the Board of Supervisors has appropriated approximately \$305,500 for improvements to the restroom facilities and repairs to the roof, exterior fence, stalls, parking lot, and market office. However, the facilities at 100 Alemany Boulevard, originally built in the 1940s, are deteriorating and in need of additional investment. On a recent Sunday afternoon during market hours, a piece of stall roof broke off and fell to the ground. Staff also noted problems with water drainage on the site during rainstorms, and during a site visit analysts noted that the market has poor signage, limited parking during peak hours, and unabated blights such as graffiti and pigeon droppings.**
- **The Real Estate Division has not found alternative weekday uses for 100 Alemany Boulevard. Currently, the City and County's Sealer of Weights and Measures uses the property during daytime hours Monday through Friday from June 1 through October 30 to test and certify taxi meters in accordance with state regulations, and in exchange waives the \$500 fee that would be charged annually to the Real Estate Division to operate the farmers' market. The property is otherwise vacant.**
- **The Alemany Farmers' Market fees have not been revised since 2004. The Administrative Code assigns responsibility to the Agricultural Commissioner to recommend fees even though the Agricultural Commissioner no longer operates the Alemany Farmers' Market.**
- **While a formal request for proposals (RFP) process brought in additional food and beverage vendors in FY 2009-10, the food and beverage vendor stalls are not actively managed to allow for new vendors to enter the market when existing vendors repeatedly fail to attend or formally sever ties with the market.**

## Current Finances of the Alemany Farmers’ Market

The Alemany Farmers’ Market, held every Saturday at 100 Alemany Boulevard regardless of weather conditions, is managed by the Real Estate Division of the General Services Agency. As a self-sustaining entity, the Alemany Farmers’ Market raises revenues through daily stall fees collected from agricultural producers as well as weekly rents collected from food and beverage vendors. Similarly, the Alemany Flea Market, held every Sunday at 100 Alemany Boulevard regardless of weather conditions, raises revenues by collecting a daily fee from flea vendors and weekly rents from food and beverage vendors.

Section 9A of the Administrative Code states that maintenance and operation of the farmers’ market “shall be financed by fees charged to producers who utilize the facilities of the market and by such other funds as may be appropriated therefore in accordance with the budgetary procedure of the Charter.” Currently and at least over the last three fiscal years, the farmers’ market together with the flea market has collected enough revenues to cover the basic annual costs of managing and operating the markets with excess revenues transferred to the City’s general fund. At the same time, the City, and the Real Estate Division in particular, do not have formal processes to ensure long term needs are sufficiently managed and financed.

As shown in Table 2.1 below, the Alemany Farmers’ Market and the Alemany Flea Market are both self-sustaining entities with revenues exceeding expenses. Together, the Alemany markets brought in \$759,565 in revenues in FY 2009-10 with expenses totaling \$335,322 resulting in net revenues of \$424,243, which were transferred to the general fund. Market revenues have increased by approximately 0.5% per year over the last three fiscal years for the Alemany Farmers Market and Alemany Flea Market.

**Table 2.1**  
**Alemany Market Revenues and Expenses**  
**FY 2009-10**

	<b>Alemany Farmers’ Market</b>	<b>Alemany Flea Market</b>	<b>Combined Alemany Markets</b>
<b>Revenues</b>	\$336,260	\$423,305	\$759,565
<b>Expenses</b>	167,661	167,661	335,322
<b>Net Revenues</b>	<b>\$168,599</b>	<b>\$255,644</b>	<b>\$424,243</b>

Source: Real Estate Division records and FAMIS

### Market Revenues

The revenues for the Alemany Farmers’ Market and Alemany Flea Market originate from daily stall fees charged to agricultural producers at the farmers’ market and flea vendors at the flea market as well as weekly rents paid by food and beverage vendors, which attend one or both of the markets. The stall fees charged to agricultural producers and other vendors are illustrated in Table 2.2 below.

**Table 2.2**  
**Fees Charged to Agricultural Producers**  
**and Other Vendors at 100 Alemany Boulevard**  
**FY 2010-11**

<b>Vendor Type</b>	<b>Daily Stall Fee: Summer (June 1- November 30)</b>	<b>Daily Stall Fee: Winter (December 1- May 31)</b>	<b>Notes</b>
Certified Producers	\$50	\$40	All agricultural producers at the market fall into this category.
Non-Certified Producers	\$60	\$50	Market does not currently include any non-certified producers.
Flea Market Vendor	\$45	\$45	A vendor who pays in advance for an entire month receives a 10% discount on the total charge for that month.
Food & Beverage Vendor	\$35 to \$120	\$35 to \$120	Weekly rents vary based on individual contracts.

Source: San Francisco Administrative Code Sections 9A & 9B; Real Estate Division documents

In FY 2009-10 the Alemany Farmers' Market collected a total of \$336,260 in revenues of which approximately \$255,000 (or 76 percent) was from agricultural producers while approximately \$81,000 (or 24 percent) was from food and beverage vendors. The monthly revenues during this period ranged from a low of \$19,797 in December 2009 to a high of \$40,478 in August 2009. Monthly revenues can be affected by a multitude of factors including, but not limited to weather conditions, holidays, and the number of Saturdays in a particular month.

A compilation of fee collection records for the Alemany Farmers' Market from FY 2009-10 is shown below in Table 2.3. As seen in this table, the Alemany Farmers' Market brought in an average of \$28,022 per month from an average of 477 farmer stalls per month (or 110 per week) and an average of 89 food vendors per month (or 21 per week).



**Table 2.3**  
**Alemany Farmers' Market Revenues**  
**FY 2009-10**

	Number of Farmer Stalls	Number of Farmer Stalls per Saturday	Farmer Revenue	Number of Food Vendors	Number of Food Stalls per Saturday	Food Vendor Revenue	Total Market Revenue
<b>Total</b>	5,721.5	N/A	\$254,990	1,102	N/A	\$81,270	\$336,260
<b>Mean</b>	477/month	110	\$21,249/month	92/month	21	\$6,773/month	\$28,022/month

Source: Staff records of daily stall fee and food and beverage rent collections

In FY 2009-10 the Alemany Flea Market collected a total of \$423,305 in revenues. The Monthly revenues during this period ranged from a low of \$24,808 in January 2010 to a high of \$47,180 in August 2009. Like the farmers' market, monthly revenues can be affected by a multitude of factors including, but not limited to, weather conditions, holidays, and the number of Sundays in a particular month. A compilation of fee collection records for the Alemany Flea Market from FY 2009-10 is shown below in Table 2.4. As seen in this table, the Alemany Flea Market brought in an average of \$35,275 per month from an average of 759 flea vendor stalls per month (or 175 per week) and an average of 23 food vendors per month (or 5 per week).

**Table 2.4**  
**Alemany Flea Market Revenues**  
**FY 2009-10**

	Number of Flea Vendor Stalls	Number of Stalls per Sunday	# of Food Vendors	Number of Food Stalls per Sunday	Market Revenue
<b>Total</b>	9,111.5	N/A	274	N/A	\$423,305
<b>Mean</b>	759/month	175	23/month	5	\$35,275/month

Source: Staff records of daily stall fee and food and beverage rent collections

## Market Expenses

Expenses associated with all of the markets<sup>1</sup> managed and operated by the Real Estate Division have declined over the previous three fiscal years (FY 2007-08 through FY 2009-10). Total expenses have decreased from \$535,294 in FY 2007-08 to \$423,987 in FY 2009-10 despite the introduction of the UN Plaza Gift Gallery in FY 2008-09. Real Estate Division staff attributes the decline primarily to the extended vacancy of the Market Manger position as well as other staff turnover. As seen in Table 2.5 below, total revenues for all of the markets have increased from

<sup>1</sup> All markets include (1) Alemany Farmers' Market; (2) Alemany Flea Market; and (3) the UN Plaza Gift Gallery.

\$827,874 in FY 2007-08 to \$956,182 in FY 2009-10. Therefore, there has been a consistent surplus of revenues for the markets operated by the Real Estate Division.

**Table 2.5**

**Revenues and Expenses of All Markets Operated by the Real Estate Division  
FY 2007-08 to FY 2009-10**

	<b>FY 2007-08</b>	<b>FY 2008-09</b>	<b>FY 2009-10</b>
<b>Total Revenues</b>	\$753,116	\$877,648	\$907,748
<b>Total Expenses</b>	\$535,294	\$499,740	\$423,987
<b>Net Revenues</b>	<b>\$217,822</b>	<b>\$377,908</b>	<b>\$483,761</b>

Source: FAMIS (Index Codes 708005 and 708002)

The annual expenses of operating and managing the Alemany Farmers’ Market and the Alemany Flea Market consist of:

1. Staffing costs including salaries and mandatory fringe benefits;
2. Non personnel services including trash pick-up, security services, and certain building maintenance and equipment maintenance;
3. Materials and supplies; and
4. Services provided by other City departments including maintenance and landscaping provided by the Department of Public Works, deposit pick up services provided by the Sheriff’s Department, electrical and water services provided by the Public Utilities Commission, and technical services provided by the Department of Technology.

**The Real Estate Division Has Not Formally Planned for the Longer Term Operating and Capital Needs of the Alemany Farmers’ Market**

**Facilities and Maintenance**

The Real Estate Division has not engaged in long term financial planning of the markets that are operated at 100 Alemany Boulevard. Specifically, while there is a scope of work for certain improvements, there is no formal facilities and maintenance plan, including cost estimates or a ranking of maintenance priorities, for 100 Alemany Boulevard. Further, the City’s 10 year Capital Plan makes reference to the Alemany Farmers’ Market as needing significant capital improvements in order to serve as an emergency staging site, but these needs are not outlined in any formal plans.

Unlike all other farmers’ markets in San Francisco, the Alemany Farmers’ Market has permanent market facilities. The Alemany Farmers’ Market site permanent facilities include two large

roofed concrete stall structures, a building housing the market office and public restrooms, and a large paved area for pedestrians, food trucks, farmer trucks, additional farmer stalls, and customer parking. The site is approximately 5.5 acres.

The facilities at 100 Alemany Boulevard, originally built in the 1940s, are deteriorating and in need of additional investment. Of particular concern to staff are the roofs of the stall structures, a piece of which broke off and fell to the ground on a recent Sunday afternoon. Staff also noted problems with water drainage on the site during rainstorms. In addition, during a site visit analysts noted that the market has poor signage, limited parking during peak hours, and unabated blights such as graffiti and pigeon droppings. Further, the property can not be secured during off hours as the site lacks fully enclosing perimeter fencing.

While funds have been allocated in recent years for some maintenance and repair of the facilities, Division staff have not formally assessed and prioritized the infrastructure and repair needs of the market site beyond a scope of work. Since FY 2007-08 approximately \$305,500 has been appropriated in capital expenses for 100 Alemany Boulevard. Approximately \$170,000 of these funds have supported projects such as improvements to the restroom facilities, replacement of a partial exterior fence, repair of concrete in two stalls, improvements to the market office, and improvements to the parking lot/asphalt. Additionally, \$135,500 was allocated in FY 2007-08 for repairs to be made to the roofing of the north stall facilities. In June 2010, the Real Estate Division acquired a bid proposal from the Recreation and Parks Department for approximately \$102,000 to make such repairs. Division staff indicates that work began in September 2010.

## **Revenue Enhancement**

There has been little formal planning for enhancing revenues of the Alemany Farmers' Market or, more generally, of the 100 Alemany Boulevard property. Despite its location at the intersection of two major freeways and its lack of use for much of the year, there has been no formal assessment of additional utilizations for 100 Alemany Boulevard. Additionally, the City lacks a formal process for assessing the fee structure of the Alemany Farmers' Market, which has not been updated in over six years. Further, while a formal request for proposals (RFP) process brought in additional food and beverage vendors in FY 2009-10, the food and beverage vendor stalls are not actively managed to allow for new vendors to enter the market when existing vendors repeatedly fail to attend or officially end their relationship with the market.

### Utilization of 100 Alemany Boulevard

According to the Assistant Director for Real Estate, finding and implementing additional revenue producing uses of 100 Alemany Boulevard has been difficult despite its location at the intersection of two major freeways and its dormant nature for much of the year on weekdays. As previously mentioned, the property at 100 Alemany Boulevard is utilized on Saturdays for the Alemany Farmers' Market and Sundays for the Alemany Flea Market. The City and County's Sealer of Weights and Measures (which is held by the same staff member who serves as the Agricultural Commissioner) currently uses the property during daytime hours Monday through Friday from June 1 through October 30 each year to test and certify taxi meters in accordance with state regulations. In exchange for use of the property for five months out of the year, the

Sealer of Weights and Measures/Agricultural Commissioner waives the \$500 fee charged to farmers' market operators for annual certifications. There is no formal agreement defining the use of the property for such testing. The Agricultural Commissioner reports that this arrangement has been in effect for many years prior to his tenure. The property is vacant on weekdays from November 1 through May 31. Although Real Estate Division management report that several revenue producing ideas, such as mobile vending and commuter parking, have been considered, none have yet proceeded past the initial planning stage due to doubts concerning their financial viability.

### Producer Stall Fees

The City lacks a systematic approach to assessing and updating stall fees for the Alemany Farmers' Market. The lack of an effective process for assessing stall fees could be a contributing factor for why the stall fees have not been updated in over six years. As previously mentioned, the stall fees charged to certified producers is \$50 from June 1 through November 30 and \$40 from December 1 through May 31. These fees were last revised in July 2004.

The current language in the City's Administrative Code regarding stall fees at the Alemany Farmers' Market is outdated and does not provide a systematic process for periodically assessing and updating stall fees. Section 9A.7 of the Administrative Code inappropriately assigns responsibility to the Agricultural Commissioner for recommending fees sufficient for paying the operating and maintenance costs of each market. While the Alemany Farmers' Market has been managed and operated by the Real Estate Division of the General Services Agency since 2007, the Agricultural Commissioner's role is to oversee the certification of all farmers' markets throughout the City. Further, Section 9A.7 sets fees for certified and non-certified producers despite the fact that Alemany only allows *certified* producers to sell at the market.

The stall fees charged to certified producers at Alemany Farmers' Market were last updated approximately six years ago in July 2004. Previous to the 2004 update, the fees were increased in October 1999. Real Estate Division management should review existing fees and recommend updates, as appropriate, to the Board of Supervisors for approval.

As seen in Table 2.6 below, the current stall fees are higher than other weekend markets within a 5 mile radius, except the Ferry Plaza market. However, the Alemany Farmers' Market receives significantly more customer volume than most of the other markets and, unlike any of the other markets, has permanent facilities requiring maintenance.

**Table 2.6**  
**Weekend Farmers' Market Stall Fees**  
**Within Five Miles of Alemany Farmers' Market**  
**As of August 2010**

Market	Day/Time of Operation	Operator	Miles from Alemany	Producer Fees	Other Vendor Fees
Alemany	Saturdays 5am to 5pm	City and County of San Francisco	N/A	<u>Jun 1- Nov 30:</u> \$50 <u>Dec 1- May 31:</u> \$40	Ranges from \$35 to \$120 based on individual contracts
Noe Valley	Saturdays 8am to 1pm	Noe Valley Ministry	2.5	\$40 for 100 sq ft; \$30 for each additional 100 sq ft	\$40 for 100 sq ft; \$30 for each additional 100 sq ft
Heart of the City-Sunday	Sundays 7am to 5pm	Heart of the City	3.5	<u>Jun 1- Nov 30:</u> \$26 <u>Dec 1- May 31:</u> \$25	\$36 for all other vendors
Fillmore	Saturdays 9am to 1pm	Pacific Coast Farmers Market Assoc.	4.5	<u>Apr 1- Dec 31:</u> \$35 <u>Jan 1-Mar 30:</u> \$25	Prepackaged: Summer- greater of \$50 or 6% of sales* Winter- greater of \$40 or 6% of sales* Prepared: Summer- greater of \$60 or 6% of sales* Winter- greater of \$50 or 6% of sales*
Divisadero	Sundays 10am to 2pm	Pacific Coast Farmers Market Assoc.	4.5	<u>Apr 1- Dec 31:</u> \$35 <u>Jan 1-Mar 30:</u> \$25	Prepackaged: Summer- greater of \$50 or 6% of sales* Winter- greater of \$40 or 6% of sales* Prepared: Summer- greater of \$60 or 6% of sales* Winter- greater of \$50 or 6% of sales*
Stonestown	Sundays 9am to 1pm	Agricultural Institute of Marin	4.5	\$40	<u>Food Prepared On-Site:</u> \$55 <u>Food Prepared Off-Site:</u> \$45
Ferry Plaza-Saturday	Saturdays 8am to 2pm	Center for Urban Education About Sustainable Agriculture	5	\$50 to \$125 based on stall size	\$46 to \$100 based on stall size + 6% of gross sales; 25% fee for premium stall locations; \$20 fee for electrical connection; \$5 parking fee per vehicle; \$46 food prep fee
Inner Sunset	Sundays 9am to 1pm	Pacific Coast Farmers Market Assoc.	5	<u>Apr 1- Dec 31:</u> \$35 <u>Jan 1-Mar 30:</u> \$25	Prepackaged: Summer- greater of \$50 or 6% of sales* Winter- greater of \$40 or 6% of sales* Prepared: Summer- greater of \$60 or 6% of sales* Winter- greater of \$50 or 6% of sales*

Source: Market Operators

\* Minimum sales amount applies

### Food and Beverage Vendors

The Real Estate Division has no formal process for managing turnover of food and beverage vendors at Alemany Farmers' Market. As a result, the City and County is losing potential market

revenue. In the fall of 2008 the Real Estate Division issued a request for proposals (RFP) for the permitting of food and beverage vendors at 100 Alemany Boulevard for the Alemany Farmers' Market and/or the Alemany Flea Market. According to Real Estate Division management, the purpose of that RFP was to formalize the process for determining food and beverage vendors. The Division was initially able to add an average of eight vendors to the weekend markets as a result of the RFP. However, there is no process set up to replace vendors that leave. While Real Estate Division management have already approached all other vendors that responded to the RFP, no steps have been taken to permit other vendors who have expressed interest in selling food and beverages at 100 Alemany Boulevard, but who did not respond to the RFP. Division management has expressed some skepticism as to the viability of additional food vendors in light of economic conditions.

## **Conclusion**

The Alemany Farmers' Market, together with the Alemany Flea Market, is a self-sustaining operation within the Real Estate Division of the General Services Agency. The Alemany markets have sufficient net revenues to provide for additional needed improvements in management and facilities, possibly offsetting a portion of net revenues by increasing capital planning expenses. There is no formal facilities and maintenance plan for the farmers' market or for the property at 100 Alemany Boulevard despite aging infrastructure that is in need of repairs such as the stall structure roofing and signage. The Real Estate Division has not undertaken a formal assessment of revenue enhancing options including additional uses for 100 Alemany Boulevard and a review of stall fees, which have not been revised in more than six years. Further, the City lacks an effective approach to assessing and updating stall fees for the Alemany Farmers' Market. Finally, the Real Estate Division's management of the food and beverage vendors to date has not allowed for new vendors to enter the market when existing vendors stop participating.

## **Recommendations**

The Director of Real Estate should direct Division staff to:

- 2.1 Establish a facilities and maintenance plan. The plan should include a formal assessment, including cost estimates and a ranking of repair and improvement needs, for 100 Alemany Boulevard such as (1) roof repairs; (2) asphalt repaving; (3) perimeter fencing and other security upgrades; and (4) improved signage, among others.
- 2.2 Evaluate the compensation arrangement between the Real Estate Division and the Sealer of Weights and Measures as part of a broader assessment of potential revenue enhancement measures for 100 Alemany Boulevard. The assessment should include a continuation of the exploration of new weekday uses for the property and adjustments to the producer fee schedule. Further, if the Director of Real Estate chooses to continue the arrangement between the Sealer of Weights and Measures, the Real Estate Division should formalize the agreement.

- 2.3 Establish policies and procedures for managing turnover of food and beverage vendors to enable the Division to maximize opportunities for new vendors to sell their products at the market and to maximize revenues from such vendors.

The Board of Supervisors should:

- 2.4 Revise Administrative Code Section 9A.7 to (1) assign responsibility for reviewing and recommending Alemany Farmers' Market fees to the Director of Real Estate; (2) require annual reviews of fees; and (3) delete references to Non-Certified Producers since the market does not allow non-certified producers to sell at the market.

## **Costs and Benefits**

Funding a capital plan for 100 Alemany Boulevard would partially offset net revenues that are transferred to the general fund by increasing funds received from the City's capital planning process. However, this may be offset in part or in whole if the city increases revenues through more weekday uses, an increase in the average number of food and beverage vendors or an increase in vendor stall fees. The benefits include having a clear direction in terms of how to proceed with making sufficient repairs and improvements to the infrastructure and facilities at 100 Alemany Boulevard and with how and when to assess and update stall fees. Additionally, the City could benefit from additional investment in the market property or General Fund revenue if the Real Estate Division is able to implement revenue enhancements.

### 3. Market Governance

- **The existing market rules and regulations for the Alemany Farmers' Market are not in full compliance with the State and City Administrative Codes. Specifically, the State Administrative Code requires certified farmers' market rules and regulations to include criteria pertaining to (a) the admission of farmers into the market, (b) admission of agricultural products into the market, and (c) removal of a farmer from the market. While the City's Administrative Code includes such criteria, they are currently not included in the Alemany Farmers' Market rules and regulations.**
- **Although the City Administrative Code requires the appointment of an advisory committee consisting of food vendors as well as farmers, the Alemany Farmers' Market has not had an advisory committee for the last 14 years. Farmers' markets managed by other cities, including Palo Alto and San Rafael, have a Board or advisory committee with farmer and/or vendor membership. According to interviews with farmers and food vendors from the Alemany Farmers' Market and other farmers' markets, having an advisory meeting is helpful in the operation of the market, and can result in better market quality. Given the changed character of the Alemany Farmers' Market, which now includes several food vendors as well as farmers, the reintroduction of an advisory committee could improve the lines of communication between market participants and Real Estate Division management.**
- **The Alemany Farmers' Market rules and regulations do not contain several policies that are included in certified farmers' market rules and regulations operated by other cities or non profits. For example, although the Real Estate Division has informal practices to assign stalls to food vendors and farmers, and to enact discipline or receive grievances, these practices are not formally included in the Alemany Farmers' Market rules and regulations nor implemented consistently.**
- **Neither the City's Administrative Code nor the Alemany Farmers' Market rules and regulations define the process or criteria for selecting food vendors. The Real Estate Division issued a Request for Proposals (RFP) in 2008 to select food vendors, based on experience, business plan, operating plan, and rent proposal. As a result, the Real Estate Division selected 20 food vendors who pay stall fees (or rent) ranging from \$35 to \$120 for stalls of the same size. This differs from the City of Santa Monica's food vendor selection process, which establishes a fixed stall ranging from \$100 to \$150, depending on stall size, and selects food vendors based on local business development, locally-grown and organic foods, environmental sustainability, and variety.**



## **The Alemany Farmers' Market Rules and Regulations Do Not Consistently Comply with State and City Administrative Codes**

According to the California Code of Regulations for Food and Agriculture (Administrative Code), the governing body of a certified farmers' market with more than one certified farmer must adopt written rules and regulations with specific procedural criteria for:

- Admission of any farmer to the market;
- Admission of any agricultural products to the market;
- Removal of any farmer from the market; and,
- Allowance of a certified farmer selling on behalf of another certified farmer.

In addition, the market rules and regulations must contain a clause stating that the governing body and its designated agents shall implement and enforce all rules and regulations in a "fair and equitable manner."

As a certified farmers' market with over 80 farmers selling products per market day, the Alemany Farmers' Market is subject to the above section of the State code. Although the City's Administrative Code contains specific procedures and criteria in accordance with State code, the existing Alemany Farmers' Market rules and regulations are not consistent with the City Administrative Code. The market rules and regulations lack explicit criteria and procedures for the admission of farmers, admission of products, and removal of farmers from the market. In addition, the City Administrative Code prohibits farmers from selling the products of other farmers, while the market rules and regulations allow and specify the conditions in which a farmer may sell on behalf of another farmer. Further, the rules and regulations lack a "fair and equitable manner" clause regarding its enforcement by Real Estate Division staff. Therefore, the Real Estate Division, with its current market rules and regulations, is not consistent with State laws and codes.

### **Admission of Farmers**

The Alemany Farmers' Market rules and regulations regarding the admission of farmers are inconsistent with City Administrative Code, policies and procedures of other certified farmers' markets, and the Real Estate Division's own practices.

#### Administrative Code Requirements

The City Administrative Code Sec.9A.15 states that only farmers that meet the following conditions may have permission to sell at the Alemany Farmers' Market:

- Proper completion and filing of an application;

- Compliance with all federal, State and local laws relating to the operation and use of farmers' markets;
- Compliance with all rules and regulations set by the governing body; and,
- Accept forms of payment provided to farmers or market sponsors by participants of federal, state or local food assistance programs, such as Electronic Benefit Transfer (EBT) cards.

#### *Completing and Filing an Application*

The existing Alemany Farmers' Market rules and regulations state that all farmers/ food vendors must be approved by the market manager. However, the condition to complete and file an application is neither included in the current market rules and regulations nor currently required by the Real Estate Division of the farmers that sell at the market. In contrast, other San Francisco certified farmers' markets, such as those operated by the nonprofit groups Center for Urban Education about Sustainable Agriculture (CUESA) and by the Pacific Coast Farmers' Market Association (PCFMA), as well those operated by the Cities of Santa Monica, Beverly Hills, and San Rafael require applications from all potential farmers and food vendors.

Most of the farmers at Alemany Farmers' Market have been selling products at the market since before the Real Estate Division began managing and operating the market. In addition, new farmers have not approached the Real Estate Division for permission to sell at the market. However, requiring farmers to complete applications annually would improve market operations because the Real Estate Division would have updated contact information for farmers, certificate information, and product lists for ensuring compliance with State laws and codes.

#### *Accepting EBT and Other Forms of Payment*

Previous versions of the rules and regulations for the Alemany Farmers' Market included a requirement for all admitted farmers to accept all forms of payment from participants of food programs, including EBT, while the most recent version posted on the Real Estate Division's website does not. Currently, all farmers do accept all forms of payment. The market rules and regulations should be revised to be consistent with the City Administrative Code and existing practices.

### **Admission of Agricultural Products**

While the City Administrative Code states that farmers' markets are for the sale of food, agricultural and horticultural products, fresh and dried, and the sale of fish, the Alemany Farmers' Market rules and regulations do not specify criteria for what types of agricultural products are allowed for sale. Other certified farmers' markets specify some criteria for limiting, restricting and prohibiting agricultural products. For example, the CUESA market rules and regulations state that products may be restricted or prohibited to "ensure variety, maintain quality standards, and to balance the range of products sold." Similarly, the City of Beverly Hills notes that the market manager may assign space to producers of short-season, specialty crops or when a particular commodity is in demand.

## Removal of Farmers

The City Administrative Code details conditions for the removal of farmers, or the suspension or revocation of a farmer's permission to sell at the market, as well as timeframes, whereas such conditions are vague and timeframes are nonexistent in the Alemany Farmers' Market rules and regulations.

Pursuant to the City Administrative Code, whenever a farmer or food vendor violates the City Administrative Code, the governing body may *immediately* suspend the farmer's or food vendor's permission to sell at the market for a period of *no less* than 30 days and no more than 90 days. During the suspension, the farmer or food vendor may not apply for new permission to sell at the market. In addition, a farmer or food vendor whose permission to sell at the market has been revoked shall be ineligible to apply for new permission for a period of two years following such revocation, unless sooner allowed by the market's governing body. If a farmer or food vendor whose permission to sell at the market has been suspended more than twice in an 18-month period, the farmer or food vendor may have their permission indefinitely suspended or revoked.

The Alemany Farmers' Market rules and regulations state that the market manager "reserves the right to refuse any [farmer]/[food] vendor" for reasons such as violation of market rules, lack of proper certification or licensing, or failure to communicate with the market manager. However, it is not clear if the farmer or food vendor may seek permission to sell at the market on the next market day or if they must wait more than a week before they can seek permission to sell at the market. Similarly, the market rules and regulations state that "failure to keep a stall clean will result in suspension," but does not specify the suspension period.

## Sale of Other Farmers' Products

Under the City Administrative Code, farmers are not allowed to sell products that were not produced on land which they own or lease. However, the market rules and regulations state that with the market manager's permission, a certified farmer may sell for only one other certified farmer under the following conditions:

- The certified farmers are of the same or adjoining counties;
- The products of each certified farmer are clearly identified;
- The certified farmer selling for another certified farmer must have at least 50 percent of their own product available for sale; and,
- There must be a Notarized letter from the other farmer stating that there is permission to sell one's product.

These conditions are allowed under the State Administrative Code, which also states that farmers involved in such a practice must have the names of the seller and the farmer giving the seller permission to sell on their behalf, on each respective farmer's certificate. Therefore, the City's

Administrative Code is more stringent than the State Code and the Alemany Farmers' Market rules and regulations.

In addition, some farmers reported having the proper certification for and selling the products of other certified farmers at the Alemany Farmers' Market. The Real Estate Division confirmed that certified farmers were granted permission to sell for other certified farmers prior to taking responsibility over the market. However, the Real Estate Division could not provide documentation of which farmers had certification to sell on behalf of other farmers. The Real Estate Division should track which farmers have proper certification and permission to sell other farmers' products to ensure compliance with State code.

The Board of Supervisors should consider amending the Administrative Code to allow certified farmers to sell the products of other certified farmers under conditions consistent with the State Administrative Code. The Real Estate Division should revise the market rules and regulations to clarify that farmers with permission to sell other farmers' products must also have the proper certification, as required by State code. By revising the City Administrative Code and market rules and regulations, farmers that currently sell products for other farmers can continue to do so in accordance with State and City code.

## **Despite Requirements by the City Administrative Code, No Advisory Committee Exists for the Alemany Farmers' Market**

According to the City Administrative Code, the governing body of the farmers' market shall appoint a committee consisting of at least three farmers and/or food vendors with valid permission to sell at the market. The committee is tasked with advising the governing body as to the general policies for the operation of the market as well as the character and nature the products to be sold. The governing body shall investigate all recommendations made by the committee and implement the recommendations as they sit fit.

Approximately 14 years ago, the Alemany Farmers' Market had an advisory committee that consisted entirely of farmers. In addition to meeting on Saturdays after the close of the market to discuss issues and concerns, the committee organized annual events and celebrations such as holiday parties. Farmers elected all of the committee members, which included a President, Vice President, Secretary, and Treasurer.

At least two other city sponsored farmers' markets in California have a Farmers' Market Board that has similar responsibilities as the advisory committee described in the City Administrative Code. However, these Boards have more input and responsibility regarding the policies and procedures of the market. The City of San Rafael has a Board that consists of one (1) farmer, one (1) vendor that is not a farmer, three (3) Businesses Improvement District Board Representatives, two (2) Redevelopment Agency Representatives, and three (3) community members at large, which are appointed by the City Council. The City of Palo Alto has a Board that consists of one to two representatives from Capay Valley Growers, Inc., one to two members from the community, and a representative from the City. Applications are filed and elections are held for membership into the City of Palo Alto's certified farmers' market board.

It is unclear why the Alemany Farmers' Market advisory committee was dissolved, but one of the more active members in the committee passed away approximately six years ago. Farmers that actively participated in the committee or attended some of the meetings recall that having an advisory meeting was helpful in the operation of the market. Some farmers who currently sell at other farmers' markets expressed that markets that have an advisory committee or active involvement by community members seem to have a better quality and atmosphere. Finally, given the changed character of the Alemany Farmers' Market, which now includes several food vendors, the reintroduction of an advisory committee could improve the lines of communication between market participants and Real Estate Division management.

## **The Alemany Farmers' Market Rules and Regulations Are Not Comprehensive**

### **Admission of Food Vendors**

There are no policies and procedures or criteria for the admission of food vendors in the Alemany Farmers' Market rules and regulations, even though the Real Estate Division accepted over 20 food vendors through a Request for Proposals (RFP) in 2008. The market rules and regulations for markets operated by CUESA and PCFMA require food vendors to submit an application and specify the criteria for their selection. In addition, the City of Santa Monica includes details regarding its RFP process and preferences for admission of food vendors in its market rules and regulations. By including their procedures and criteria for selection of food vendors, other farmers' markets have increased transparency and accountability for its food vendor policies and procedures.

### Comparison of City of Santa Monica and San Francisco RFP Process

The San Francisco RFP process, which occurred in September of 2008, required potential food vendors to submit more documents than those required by the annual Santa Monica RFP.<sup>1</sup> Prospective food vendors at Santa Monica farmers' markets must complete a three page proposal form and include information regarding five criteria:

- **Business Location:** Priority is given to food vendors with established restaurants within the local business district of the market to which they are applying to, and last preference is given to mobile food business residing outside the City of Santa Monica;
- **Ingredient Sourcing:** Consideration of the source of ingredients for prepared food include whether ingredients are grown in California, organic, free range and grass fed meats, or purchased from Santa Monica Farmers' Market farmers;

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<sup>1</sup> The San Francisco Request for Proposal is for submission into the Alemany Farmers' Market while the Santa Monica Request for Proposal is for submission into one of its four city-run farmers' markets.

- Environmental Sustainability: Evaluation of environmental sustainability is based on green certification such as the Sustainable Works Business Greening Program<sup>2</sup>;
- Experience: Participation in outdoor event food preparation, restaurant or catering experience is considered for selection; and,
- Value: Preference is given to products that are unique and that ensure a wide array of offerings to fulfill customer demand.

In contrast, potential food vendors for the Alemany Farmers' Market must submit a statement describing the intended use of space at the market; a one page business plan for the proposed use of the space; a detailed management and operation plan for the space, including a description of proposed staffing, hours of operation, and a marketing plan; and a description of the food and beverage(s) to be sold. In addition, the potential food vendor must submit a proposed rent for the requested space. Evaluation of the proposal and selection is based on the following criteria:

- Experience – 30 points;
- Proposed Rent – 25 points;
- Business Plan – 25 points; and,
- Management Operation Plan – 20 points.

While the City of Santa Monica's food vendor selection criteria focuses on local business development, locally-grown and organic foods, environmental sustainability, and variety, the Real Estate Division places more emphasis on a potential food vendor's experience, business plan, and proposed rent. As shown above, proposed rent in San Francisco is one of the criteria for selection and represents a quarter of the total possible points in the proposal evaluation. As a result, food vendors with the same stall size may pay different stall fees based on their respective bids at Alemany Farmers' Market. Stall fees for selected food vendors at Alemany Farmers' Market currently range from \$35 to \$120. However, proposed rent is not a criterion for selection in Santa Monica because food vendors in the same category<sup>3</sup> pay the same stall fee per assigned stall space. Food vendors based in Santa Monica must pay \$100 per market day for 100 square feet of space and \$150 per market day for 200 square feet of space.

The Board of Supervisors should consider amending the Administrative Code to adopt standard food vendor stall fees at the Alemany Farmers' Market. Standardized fees would create more equitable conditions for food vendors renting comparable stalls.

Future Requests for Proposals for food and beverage vendors at the Alemany Farmers Market should include food vendor criteria that would ensure that food vendors on public property are

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<sup>2</sup> Sustainable Works is a nonprofit organization that offers a Business Greening Program to help businesses increase resource efficiency and "green their bottom line." The program helps businesses reduce and divert solid waste, become water efficient, eliminate toxic chemicals, minimize transportation impacts, and reduce energy use.

<sup>3</sup> The two categories of food vendors with stall fees are Santa Monica businesses and non-Santa Monica businesses.

consistent with other City policies, such as promoting healthy foods and fostering small local businesses.

## **Assignment of Stalls**

The Real Estate Division tries to assign permanent stalls to farmers and food vendors, but does not have a sufficient process for assigning vacant spaces as they become available.

### Assignment of Stalls to Farmers

There are 127 stalls permanently assigned to 86 farmers, with 39 farmers assigned at least two stalls. There are no written procedures stating how farmers are assigned more than one stall. All of the stalls are currently assigned, but when there are cancellations, there are no written procedures for how additional available stalls are assigned to farmers already present with permanent stall assignments. The Real Estate Division lacks written criteria for ensuring that assignment of available stalls does not lead to a saturation of certain products sold at the market or a monopoly by one farmer or a family of farmers.

### Assignment of Stalls to Food Vendors

As discussed in Section 2, there is no process to facilitate food vendor turnover and accommodate food vendors that are currently on a waiting list to sell at the Alemany Farmers' Market. Through its annual RFP process, the City of Santa Monica has procedures for allowing new food vendors to sell at the market and existing food vendors to make menu changes. The RFP is for one third of the available spaces at the farmers' markets and three-year contracts are awarded. If a selected food vendor is unable to fulfill the terms of its agreement, the next eligible food vendor from the initial RFP process will be offered a stall space and agreement for the remaining term of the food vendor that left. Having such a process allows the market operators to increase revenues and enhance the quality of the market through a variety of food vendors participating at the market.

## **Health and Safety Codes**

Included in the Alemany Farmers' Market rules and regulations are several rules that require compliance with State laws and codes, such as all products must be certified and the certificate must be displayed at the point of sale, all scales must have a current seal from the Department of Weights and Measures, prepackaged items must be properly labeled and price signs for all products must be clearly displayed. While the market rules and regulations state that all "Public Health Regulations" apply, specific public health regulations should be included in the market rules and regulations to improve the Real Estate Division's compliance program, such as sampling procedures and food storage requirements. Such rules are already included in the market rules and regulations for other certified farmers' markets.

## **Disciplinary, Appeals, and Grievances Processes**

Although the market rules and regulations of farmers' markets operated by other cities and nonprofits include a formal disciplinary and appeals process that identify various types of violations and consequences/penalties depending on the type of violation or frequency of violations, the Alemany Farmers' Market rules and regulations lacks such processes. In addition, other than being able to leave messages for the market manager on the daily load lists,<sup>4</sup> there is no formal process for farmers and food vendors to address grievances regarding the operation of the market.

### Disciplinary Process

The Alemany Farmers' Market rules and regulations state that a farmer or food vendor may be not be granted permission to sell at the market due to violation of market rules and may be suspended from the market for failure to maintain a clean stall. However, there is no indication of what may happen prior to suspension or the duration of the suspension. In practice, farmers that are found to violate State laws and codes, such as selling products not listed on their certificates or not posting their certificate, are provided verbal and/or written warnings. Documentation of these warnings, however, has been inconsistent. Within the past two years, there have been no suspensions or expulsion of farmers or food vendors that were previously granted permission to sell at the market.

The Real Estate Division should develop and include a formal disciplinary process into a revised market rules and regulations. The process should include the number of warnings required prior to more severe actions such as fines, suspension or expulsion. Additionally, the process should include how warnings and disciplinary actions shall be documented and tracked.

### Appeals Process

The City Administrative Code includes a formal appeals process for disciplinary actions at farmers' markets, but the Alemany Farmers' Market rules and regulations does not and farmers and food vendors are not aware of any formal process. Under the City Administrative Code, denial, suspension, or revocation of a farmer's or vendor's permission to sell at the market may be appealed in writing with the Director of Administrative Services. There have been no formal appeals to the Director of Administrative Services while Alemany Farmers' Market has been under the Real Estate Division, even though some food vendors have been denied permission to participate at the market through the RFP process. By clarifying a formal appeal processes in the rules and regulations and communicating the process to existing and potential farmers and food vendors, the Real Estate Division would increase transparency and accountability in its decision making and operation of the market.

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<sup>4</sup> State law requires all certified farmers to provide market managers a load list of all products brought to and sold at the farmers' market, including quantities and gross sales of each item.



## Grievance Process

When farmers and/or food vendors have a grievance over the compliance of other farmers and/or food vendors, customers, or the general operation of the market, no consistent process for resolving grievances is followed. Some farmers and vendors speak to the market manager, or market staff when the market manager is not available. Some food vendors go directly to Real Estate Division management. Other food vendors have resorted to petitioning or speaking to members of the Board of Supervisors, even though the Board of Supervisors is not mentioned in the Administrative Code or the market rules and regulations as part of the Alemany Farmers' Market governance structure for appeals and grievances. Further, the Director of Administrative Services is not approached by farmers and/or food vendors even though the official is the final authority over appeals of disciplinary actions, per the Administrative Code. A formal grievance procedure should be developed, included in the market rules and regulations, and communicated to all market participants.

## **Conclusion**

The existing market rules and regulations for the Alemany Farmers' Market do not comply with State laws and codes or include policies and procedures specified in other certified farmers' markets' rules and regulations. Specifically, the Alemany Farmers' Market rules and regulations do not include specific criteria and policies regarding (a) the admission of farmers into the market, such as an application procedure, (b) admission of food vendors into the market, such as a detailed Request for Proposal process and selection criteria, (c) assignment of stalls, (d) admission of agricultural products into the market, and (e) formal disciplinary, appeals and grievances procedures.

Additionally, the Alemany Farmers' Market does not have an advisory committee that consists of farmers and food vendors, even though the City Administrative Code requires the appointment of such an advisory committee, a committee existed prior to the Real Estate Division's management of Alemany Farmers' Market, and other farmers' markets in California managed by a city maintain a Board or advisory committee with farmer and food vendor membership.

## **Recommendations**

The Board of Supervisors should:

- 3.1 Consider amending the Administrative Code to adopt standard food vendor stall fees for the Alemany Farmers' Market and Alemany Flea Market.
- 3.2 Consider amending the Administrative Code to allow certified farmers to sell other certified farmers' goods at the Alemany Farmers' Market.

The Director of Real Estate should:

- 3.3 Evaluate and revise the existing market rules and regulations to ensure consistency with State and City Administrative Code provisions, including procedures and criteria for, but

not limited to, the following: admission of farmers and food vendors into the market; admission of products; sale of other farmers' products; assignment of stalls; and formal disciplinary, appeals and grievance procedures. Require current farmers and food vendors to sign the revised rules and regulations and maintain signed copies in the market office.

- 3.4 Facilitate the formation of an advisory committee that consists of at least three farmers and/or food vendors with permission to sell at the Alemany Farmers' Market, and facilitate the committee's input and feedback on the revised market rules and regulations.

The County Agricultural Commissioner should:

- 3.5 Take corrective action against the Real Estate Division, including the holding of hearings, if the Division does not submit revised market rules and regulations in accordance with the State Administrative Code. The corrective actions should be taken, if necessary, when the Real Estate Division applies for a renewal of the Alemany Farmers' Market certification..

## **Costs and Benefits**

Implementation of all recommendations should be accomplished using existing resources. By revising the market rules and regulations, the Real Estate Division would be compliant with the State Administrative Code and improve transparency and accountability in the operation of the market. If an advisory committee consisting of at least three farmers and/or food vendors is formed, the Real Estate Division would be implementing policies already set forth in the Administrative Code and vendors could provide more input and feedback into the operation of the market, potentially improving the quality of the market.

## 4. Market Compliance

- **State and local codes regulate the operation of farmers' markets to ensure that products sold at farmers' markets are of acceptable quality for public health and that selling activities are conducted honestly and fairly. The County Agricultural Commissioner and the Department of Public Health's Environmental Health Section enforce these laws through their permitting and inspections of farmers and food vendors. However, the Real Estate Division and the Market Manager are required to ensure that the Alemany Farmers' Market is in compliance with these regulations on a daily basis.**
- **Real Estate Division staff are not adequately trained and do not have sufficient tools to ensure that the Alemany Farmers' Market is compliant with State and City laws and codes. If farmers and food vendors are noncompliant with applicable laws, the City, as the market manager, may be cited for code violations, have its certification suspended or revoked, and/or pay financial penalties.**
- **Farmers and food vendors at the Alemany Farmers' Market have had a history of violations and may still be in violation of State and local laws and codes. During a site visit on August 14, 2010, farmers were found storing food less than six inches above ground as required, preparing and distributing food samples in an unsanitary manner based on State Code criteria, using weights and scales without proper seals, and selling products without clearly displaying prices.**
- **Enforcement agencies do not inspect the Alemany Farmers' Market the required minimum number of times per year. In addition, several of the food vendors do not have the necessary Department of Public Health Environmental Health permits to operate at the Alemany Farmers' Market. Fees for temporary event food vendors to operate one day per week at the Alemany Farmer's Market are higher than comparable fees for small restaurants who have larger space and operate full-time, resulting in their lack of compliance with health code and permit requirements. Alemany Farmers' Market food vendors may pay approximately \$1,396 per year compared to a small restaurant that pays \$1,077 per year.**

### **State and Local Regulations for Farmers' Markets and Enforcement Agencies**

#### **Applicable Regulations**

Several State codes and the City's Administrative Code set conditions that facilitate the sale of agricultural products and prepared foods at farmers' markets while ensuring that products sold

are of acceptable quality for public health and that the selling activities are conducted fairly and honestly. Applicable State and local regulations for farmers' markets include:

- California Food and Agricultural Code: This code states that the County Agricultural Commissioner issues certificates for certified farmers' markets and must inspect such markets at least once every six months, or twice a year. The Agricultural Commissioner also issues certificates to farmers (producers) and must inspect the property or properties listed on the certificates to verify that the certified products are grown on their land. All fresh fruits, nuts and vegetables sold at certified farmers' markets must comply with State laws and codes regarding their production, transport and sale. Violations of such codes could result in the suspension or revocation of a certified producer's certificate or the certified farmers' market certificate, and/or a financial penalty.
- California Code of Regulations (Administrative Code): The Direct Marketing section details who may operate a certified farmers' market and what farmers may or may not sell at these markets. In addition, the regulations include requirements for farmers' display of certificates and prices, certification and display of organic products, and use of approved weights and scales. The Direct Marketing section also outlines the certification requirements for a farmer and manager of a certified farmers' market, as well as specifies the penalties for violating State laws and codes, as discussed in the Food and Agricultural Code. Finally, this section prohibits the sale of nonagricultural products (food and beverages) from within the area designated as a certified farmers' market. Food and beverages may only be sold adjacent to a certified farmers' market area where certified farmers conduct sales.
- California Health and Safety Code: This code includes requirements for food storage and preparation of food samples, as well as other sanitary conditions. Under this code, live animals, birds or fowl are prohibited within 20 feet of anywhere food is stored or held for sale, with the exception of service dogs. Finally, this code includes permit requirements for the preparation and sale of food and beverages adjacent to a certified farmers' market.
- City Administrative Code: In addition to requiring all farmers' markets to comply with State and local codes regulating the sale of products at the markets and be subject to inspections, the Administrative Code requires that the farmers' markets accept all forms of payments, including Electronic Benefit Transfer (EBT) cards. The Alemany Farmers' Market is compliant with this requirement. Market staff exchanges food stamps and alternative forms of payment with tokens that could be used to purchase agricultural products. In turn, farmers return these tokens to the market office in exchange for a check.

Pursuant to State regulations, the Real Estate Division, as a certified farmers' market operator, could receive notices of violations or noncompliance; have the certified farmers' certificate suspended, revoked, or denied; and/or pay financial penalties for not ensuring that all participants in the market comply with State regulations.

## **Enforcement Agencies**

The County Agricultural Commissioner enforces the Food and Agricultural Code through its certification and inspections of farmers and certified farmers' markets. The State Department of Food and Agricultural however, has final authority over the appeal of citations for Food and Agricultural Code violations. The Department of Public Health's Environmental Health Section enforces the State Health and Safety Code through its permitting process and inspections of farmers and food vendors at certified farmers' markets.

However, the Real Estate Division staff is responsible for ensuring that all farmers and food vendors at Alemany Farmers' Market have the required certificates and permits to sell, as well as comply with all applicable State and local regulations on a daily basis.

## **Real Estate Division Staff Lack Sufficient Training and Tools to Ensure Compliance with State and Local Regulations**

### **Training**

The Real Estate Division does not provide regular, formal training for market managers and other staff members that assist at the market, but do not have specialized knowledge of agriculture or health and safety codes. As discussed in Section 1, in addition to knowing all of the applicable regulations for farmers' markets, a competent market manager should have specialized knowledge of numerous types and varieties of produce, including when they are considered in season. Currently, new staff members are provided a copy of the regulations and are expected to enforce compliance immediately. The Real Estate Division has also had ad hoc trainings from the State Department of Food and Agriculture, but there is no regular training for new market managers.

At a minimum, the Real Estate Division should develop and provide Alemany Farmers' Market staff a manual and require formal training from enforcement agencies on the following topics:

- Regulations for certified farmers' markets, farmers, and food vendors selling adjacent to the designated certified farmers' market area;
- How to recognize when certified produce are in season and tell the difference between when produce was farmed under certified conditions, kept in cold storage, and/or bought from the store and resold at the market; and,
- Food safety, including the causes of food poisoning and ways to prevent it, time and temperature controls, cross contamination<sup>1</sup>, cleaning and sanitizing. The Department of Public Health's Environmental Health Section provides one day training courses and food safety certification, which are valid for up to five years.

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<sup>1</sup> Cross contamination is the contamination or potential contamination of food by contact with potentially hazardous foods or substances (such as blood from raw meat) or by contact with unsanitized surfaces.

## **Tools**

The Real Estate Division has several tools available to staff to ensure that all farmers and food vendors are compliant with State and local laws. However, these tools should be improved and additional resources should be developed and utilized to strengthen the Division's compliance program.

### Market Reports

After each market day, staff input into an excel spreadsheet the number of stalls/spaces occupied; the total fees collected; the dollar amount of EBT sold; and any warnings, suspensions or other notable activities during the day. For example, market managers noted when farmers (by name and stall number) sold products that were not listed on their certificates and whether they told the farmers to put away the products, or had to confiscate and store the products at the market office until the end of the market day.

Two inconsistencies were found in the market reports that should be avoided going forward. First, on January 31, 2009 there was a note that staff "went around checking line items on individual certificates and took action as needed." Staff should check line items on individual certificates every market day and all actions taken should be recorded by farmer name and stall number. Second, for the months of June and July, 2010, there were no notes or activities recorded. It is not clear if staff did not conduct a daily compliance review or if a review was conducted and there were just no incidents to report. Again, compliance reviews should be conducted on every market day and "no incidents to report," should be clearly labeled on applicable days.

### Farmer Database

The Real Estate Division has a database of all farmers at the market with their contact information, assigned stall number, certificate number, certificate expiration date, and a brief description of the products they sell. As of the writing of this report, all farmers had valid certification according to the database. The listing of products however, should be more descriptive as opposed to general descriptions such as "vegetable" and "fruit." By listing all products listed on each farmer's certificate(s) and when the products are in season, market staff would have an additional tool for ensuring that farmers are selling products in accordance with State laws and codes. Furthermore, this database should be updated annually when certificates are reissued by the Agricultural Commissioner.

The farmer database should include a running tally of all verbal and written warnings, and citations per farmer. Documentation of multiple violations would allow the Real Estate Division to enforce a formal disciplinary process that includes suspending or removing farmers with repeat violations. Currently, the only way staff can view farmers' repeat violations of laws and code is by reviewing multiple documents and entries in the market reports.

### Food Vendor Checklist

There is a database of all food vendors at the market and a list of all required City permits and insurance requirements,<sup>2</sup> per the food vendors' contract with the Real Estate Division for space to sell food at the market. However, several of the food vendors had expired permits or certification, and only two of the 20 food vendors had the City endorsed on their general liability insurance, which is a requirement of their contract. According to Real Estate Division staff, it has been difficult to obtain compliance regarding insurance requirements. The Real Estate Division should document all actions taken to help food vendors meet insurance, permit, and certification requirements (e.g. verbal and written correspondence), timelines, and consequences for not meeting these requirements (e.g. revoke permission to sell at the market until these conditions are met).

### Department of Public Health Check Off List

Since July 17, 2010, the Real Estate Division has been completing and keeping on file a Department of Public Health, Environmental Health Section check off list that was recently created by the Department. The check off list includes health and safety code requirements for food storage and display (e.g. all foods must be at least six inches off the floor), live animals, restrooms, egg sales, waste management, and non-certified sales (e.g. food vendors' permits and seafood sales) at farmers' markets. The market managers are to complete and file the check off list for each market day, noting if the farmers' market meets the requirement (yes), does not meet the requirement (no), or if a violation was corrected. Upon each inspection by the Department of Public Health, the inspector could then review the market managers' compliance review of previous market days throughout the year and identify inconsistencies between code violations identified by the inspector and code violations/compliance reviewed by the market manager through the check off lists.

The Department of Public Health check off list, however, is limited in that it checks farmers' market compliance as a whole but not for individual farmers and food vendors, and does not require more specific information for each violation category. There is only one row of boxes for each potential health and safety code violation. For instance, there is only a row of "yes, no, or corrected" boxes for food stored at least six inches off the floor, when multiple vendors could be violating this code. While the market manager could check "no" because, as a whole the market is noncompliant, there should be additional space on the checklist, or there should be an additional checklist/database to document which farmers and/or food vendors require corrective action. Similarly, specifics should be recorded when a farmer and/or food vendor does not use proper sampling techniques, e.g. the food handler is not using gloves or washing food properly, potentially hazardous food such as cut fruit are not stored and displayed at proper temperatures, or tongs are not available for customers to handle food samples, etc.

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<sup>2</sup> The insurance requirements are not included in State Administrative Code, but are part of the RFP to meet City Administrative Code requirements regarding City contractors' and vendors' insurance policies.

### Additional Checklists

The Real Estate Division should develop and utilize a check off list for possible food and agricultural code violations, similar to the Department of Public Health check off list. For example, the Center for Urban Education about Sustainable Agriculture (CUESA), the nonprofit that manages the Ferry Plaza certified farmers' market, uses a check off list that includes the names of each farmer and whether the proper certificate is posted, the weights and scales have a proper seal, and the prices are clearly displayed. Like the Department of Public Health check off list, a food and agricultural code check off list could be reviewed by the Agricultural Commissioner during inspections to hold the market manager accountable for compliance review throughout the year.

## **The Alemany Farmers' Market Has Not Consistently Complied with State and Local Laws**

### **Prior Incidents of Noncompliance**

The State Department of Food and Agriculture and the County Agricultural Commissioner have cited the Alemany Farmers' Market for noncompliance with State and local laws.

In October 2007 and March 2008, the County Agricultural Commissioner issued Notices of Noncompliance to the Real Estate Division for Alemany Farmers' Market violation of State regulations requiring that the certified farmers' market operator ensure that all participants in the market comply with State regulations. In an inspection on September 8, 2007, the Agricultural Commissioner found 37 instances of individual farmers' noncompliance with State code requirements. During a follow up inspection in October 2007 the Agricultural Commissioner found 11 instances of noncompliance with State Code. Examples of violations from the 2007 and 2008 inspections include:

- Certified farmers selling products not listed on their certificates;
- Certified farmers selling products not of their own production;
- Farmers not having a certified producer certificate and/or valid certificate not posted;
- Weights or scales not having a current seal from the County Weights and Measures Program; and,
- Farmers' selling organic products not registered with the State; organic registration not in possession, and/or not posted.

Though the Division did not have to pay any financial penalties, the Division was warned that continued noncompliance could result in the non-issuance of another Certified Farmers' Market Certificate. The Real Estate Division recognized problems in market management and moved to



address the citations for noncompliance. According to the Agricultural Commissioner, a follow-up inspection found that previous violations were corrected.

During its most recent visit in October 2008 the State Department of Food and Agriculture noted some of the Alemany Farmers' Markets' deficiencies, including food and beverage vendors located in the middle of a certified farmers' market area, farmers improperly labeling food containers for consumers, certificates not posted, and farmers selling the products of other farmers without a second certificate, but did not issue any notices of violations. Since that time, the Real Estate Division relocated the food and beverage vendors from the center of the permanent stalls for farmers to spaces outside, and adjacent to the designated certified farmers' market area, making the City compliant with State regulations.

### **Possible Continued Noncompliance**

Despite documented instances of noncompliance from the State Department of Food and Agriculture and the County Agricultural Commissioner, the Alemany Farmers' Market may still be noncompliant with State regulations.

During a site visit on August 14, 2010 vendors appeared to be noncompliant with several State regulations, including farmers not posting a certificate at the point of sale, not displaying prices for products, using weights and scales without a current seal from the County Weights and Measures Program<sup>3</sup>, storing food less than six inches above the ground, and not preparing and distributing samples in accordance with State Health and Safety Code. For example, disposable gloves were not used when cutting food samples and/or samples were not stored in clean, covered containers or distributed with tongs. Though the San Francisco Department of Public Health, Environmental Health Section reviewed pictures and confirmed that the Alemany Farmers' Market may be noncompliant with State regulations, the Department of Public Health Check Off List for August 14, 2010 completed by Real Estate Division staff noted that the market was compliant with the listed health codes.

The inconsistency between the Real Estate Division's documented compliance review and the cursory compliance review completed as part of this audit demonstrate that Real Estate Division staff require additional training and tools to ensure that the Alemany Farmers' Market is in compliance with State and local regulations.

### **Enforcement Agencies' Compliance Programs**

#### Inspection Requirements

Enforcement agencies reported that they have not been able to inspect the Alemany Farmers' Market as frequently as they would like to or as required by State regulations. According to the State Department of Food and Agriculture's Inspection and Compliance Branch, once per quarter, the State conducts random inspections of certified farmers' markets during one full

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<sup>3</sup> The County Weights and Measures Program is managed by the Agricultural Commissioner and is housed in the Environmental Health Section of the Department of Public Health.

week. With over 500 certified farmers' markets throughout the State, and only five staff members, the State is only able to inspect a few Saturday markets per year, and has only inspected the Alemany Farmers' Market once within the last two years.

Though the County Agricultural Commissioner is required by State law to inspect the Alemany Farmers' Market twice per year, the market has only been inspected twice between January of 2008 and mid-2010, compared to the required five inspections. With over 20 certified farmers' markets in San Francisco and only three staff members available to conduct inspections and respond to consumer complaints at certified farmers' markets, in addition to non-farmers' market enforcement responsibilities,<sup>4</sup> the Agricultural Commissioner is unable to conduct biannual inspections and enforce State laws and codes at Alemany Farmers' Market.

Similarly, the Department of Public Health, Environmental Health Section must inspect the Alemany Farmers' Market twice per year, but reported not being able to because of inspectors' workload. In addition to inspecting over 20 certified farmers' markets in the City, each inspector is responsible for inspecting restaurants and other food facilities within their assigned City districts.

The Agricultural Commissioner and the Department of Public Health, Environmental Health Section should evaluate and reallocate its resources to make sure that each farmers' market is inspected at least twice per year, pursuant to State regulations.

#### Permitting Process and Fees

Though State regulations require all food vendors at farmers' markets to obtain and display all necessary health permits, several food vendors at the Alemany Farmers' Markets do not have their required permits. Real Estate Division management and food vendors report that the permit fees are prohibitive for the small business owners that sell food at the Alemany Farmers' Market.

#### *Required Permits for Food Vendors*

There are three types of permits available to farmers and food vendors at certified farmers' markets, each with separate application procedures and fees:

- Farmers and retail food vehicles,<sup>5</sup> or farmers and food vendors that sell prepackaged foods, open-air seafood, live animals, or bakery items, require a certified food vendor permit;
- Food vendors selling prepackaged or non-prepackaged non-potentially hazardous foods<sup>6</sup> or preparing, processing, and/or cooking potentially hazardous foods<sup>7</sup> inside a vehicle, such as

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<sup>4</sup> In addition to enforcement of State regulations for certified farmers' markets, the Agricultural Commissioner inspects plant products shipped to and exported from San Francisco, as well as monitor pest conditions in agricultural and horticultural areas in the City.

<sup>5</sup> Retail food vehicle vendors do not necessarily sell their products from a vehicle, despite their title.

<sup>6</sup> Non-potentially hazardous foods are handled, sold, or distributed in a method that does not create a high hazard of contamination (e.g. whole fruit, packaged candy bars, packaged cookies, bottled soda, or canned sodas).

<sup>7</sup> Potentially hazardous foods are handled, sold, or distributed in a method that has a high hazard of potential for contamination, such as cooking, reheating, slicing, or mixing meat, tomatoes, fruits, dairy, seafood, etc.

food vendors with pushcarts, catering trucks, prepackaged food trucks, and taco trucks, require a mobile food facilities' permit; and,

- Food vendors cooking or selling prepackaged or non-prepackaged foods inside a booth/tent such as a popcorn tent, falafel stand, fresh juice or smoothie stand, or a hot coffee stand require a temporary event permit.

Though the California Health and Safety Code requires separate permits for different food vendor types, the Department of Public Health, Environmental Health Section could only provide documentation of enforcement efforts for temporary event and mobile food facilities' permits at farmers' markets within the past year. Although these permits have been mandatory for all temporary event food vendors in the City for many years, it is unclear whether the Department of Public Health has adequately enforced this requirement, particularly at farmers' markets.

### *Health Permit Fees*

On two occasions, the Department of Public Health, Environmental Health Section has reduced the temporary event permit fees based on concerns on the cost of fees over a one year period. Prior to late April of 2010, certified farmers' markets were required to pay per high hazard vendor<sup>8</sup> a quarterly permit application fee of \$104, an inspection fee of \$92 for two event days, and \$40 for each extra event day in the quarter. Because most food vendors sell at the Alemany Farmers' Market every week of the year, a high hazard food vendor could pay an estimated \$596<sup>9</sup> quarterly under this fee structure, or \$2,384 annually.

The Department of Public Health Environmental Health Section revised the inspection fee to a flat fee of \$250 per quarter in April 2010 and reduced the quarterly application fee from \$104 to \$99 in August 2010, without obtaining Board of Supervisors approval. Currently, a high hazard food vendor at the Alemany Farmers' Market could pay \$349 (\$99 plus \$250) quarterly or \$1,396 per year.

In contrast to the existing temporary health permit fee of \$1,396 per year for a 100 square foot stall or booth at the Alemany Farmers' Market open approximately once per week, the health permit fee for a 1,000-2,000 square foot restaurant that operates more days per week is \$1,077.

The temporary health permit fee is in addition to the daily stall fees paid by each food vendor to the Real Estate Division, which range from \$35 to \$120. The food vendors that require a temporary health permit find the quarterly temporary event permit fees, together with the daily stall fees, to be prohibitive for the growth of small business owners selling at Alemany Farmers' Market.

The Department of Public Health, Environmental Health Section should evaluate the cost of approving permits and conducting inspections for food vendors at weekly farmers' markets. The

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<sup>8</sup> A high hazard vendor is defined as an operation that handles, sells, or distributes potentially hazardous foods.

<sup>9</sup> The fee for a high hazard food vendor who sells food 12 days per quarter is \$596 [\$104 + \$92 (for 2 days) + (\$40/day x 10 days)].

health permit fees should then be revised to reflect cost recovery for the Department's State Health and Safety Code compliance program, which would be subject to Board of Supervisors' approval.

## Conclusion

While enforcement agencies implement State laws and regulations through their permitting and periodic inspections of farmers' market operators and farmers and food vendors, the Real Estate Division is responsible for ensuring that the Alemany Farmers' Market is in compliance with these regulations on a daily basis. However, the Real Estate Division staff are not adequately trained and do not have sufficient tools to ensure that the Alemany Farmers' Market is compliant with State and City laws and codes.

Under the Real Estate Division's management, farmers and food vendors at the Alemany Farmers' Market have had incidents of noncompliance and may still be noncompliant with State and local laws and codes. The City, as the market operator, could receive notices and citations for code violations, have its certification suspended or revoked, and/or pay financial penalties if vendors are found noncompliant with applicable laws.

Enforcement agencies do not inspect the Alemany Farmers' Market the minimum number of times per year to ensure that the market is complaint with State laws and codes. In addition, several of the food and beverage vendors do not have the necessary Department of Public Health Environmental Health Section permits to operate at the Alemany Farmers' Market. Food vendors report that the application fees for temporary food vendors at the market are higher than the fees for restaurants with more space and days of operation, and are prohibitive for small business owners, resulting in their lack of compliance with health code and permitting requirements.

## Recommendations

The Director of Real Estate should:

- 4.1 Develop and require farmers' market managers' participation in regular, formal trainings on State and local regulations related to certified farmers' markets; specialized knowledge of agriculture and produce, including when products are in season; and food safety issues.
- 4.2 Direct staff to improve the use of existing tools and develop additional resources, such as a check off list for food and agricultural code violations, with the assistance of the Agricultural Commissioner, for stronger compliance reviews.

The Director of the Department of Public Health, Environmental Health Section should:

- 4.3 Evaluate the cost of approving permits and conducting inspections, revise existing health permit fees for food vendors that sell at certified farmers' markets accordingly, and submit these revised fees to the Board of Supervisors for approval.

- 4.4 Evaluate and reallocate existing resources to ensure that all certified farmers' markets are inspected at least twice per year.

The County Agricultural Commissioner should direct staff to:

- 4.5 Evaluate and reallocate existing resources to ensure that all certified farmers' markets are inspected at least twice per year.

## **Costs and Benefits**

Implementation of all recommendations should be accomplished using existing resources. By improving the Real Estate Division's compliance program through additional training, development, and use of tools, the City could reduce the risk of allowing contaminated food to be sold and distributed at the Alemany Farmers' Market and allowing unfair and dishonest selling practices to occur. Additionally, a stronger compliance program would reduce any risk of the City losing its farmers' market certification and/or paying financial fees for noncompliance with State and local regulations. If evaluation of the City's health permit fees leads to a reduction in fees, any potential loss in revenue from the health permit fees could potentially be offset by increased revenues from the participation of more food vendors at farmers' markets. The Department of Public Health, Environmental Health Section and Agricultural Commissioner reported that additional staff may be needed to ensure that all certified farmers' markets are inspected at least twice per year. The departments should provide workload justification when requesting new staff and report how the costs for additional staff impact permit fees.

The Written Response from the Director of Real Estate, the  
Agricultural Commissioner, and the Director of  
Environmental Health Regulatory Programs

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*Amy L. Brown*  
*Director of Real Estate*



MEMORANDUM

DATE: October 13, 2010

TO: Harvey Rose, Budget & Legislative Analyst

FROM: Amy L. Brown, Director of Real Estate & Deputy City Administrator *AB*

**SUBJECT: Audit Findings for Alemany Farmer's Market – 100 Alemany**

Pursuant to your request, this is confirmation that the Real Estate Division has received and reviewed the draft audit of our Alemany Farmer's Market operations at 100 Alemany. As we noted in the response section of the report, we fully intend to take action on the recommendations of the report, with the noted exceptions or clarifications in our comments. We certainly appreciate your team's efforts as the audit findings are very helpful to improve upon our operations at Alemany Market.

### **Recommendation Priority Ranking**

Based on the management audit findings, the Budget Analyst has made 20 recommendations which are ranked based on priority for implementation. The definitions of priority are as follows:

- Priority 1: Priority 1 recommendations should be implemented immediately.
- Priority 2: Priority 2 recommendations should be completed, have achieved significant progress, or have a schedule for completion prior to February 28, 2011. The Real Estate Division or the responsible department should submit information on recommendation implementation to the Chair of the Government Audit and Oversight Committee prior to February 28, 2011.
- Priority 3: Priority 3 recommendations are longer term and should be completed, have achieved significant progress, or have a schedule for completion prior to August 15, 2011. The Real Estate Division or the responsible department should submit information on recommendation implementation to the Chair of the Government Audit and Oversight Committee prior to August 15, 2011.



	<b>Recommendation</b>	<b>Priority</b>	<b>Department Response</b>	<b>Implementation Status/ Comments</b>
	<b>The Director of Real Estate should:</b>			
1.1	Develop a mission statement for the market with the input of stakeholders including the Agricultural Commissioner, Director of Environmental Health, and the Executive Director of the Office of Small Business.	1	Agricultural Commissioner: Agree  Real Estate: Agree	The Agricultural commissioner agrees to provide input.
1.2	Develop new performance measures consistent with the proposed Alemany Farmers' Market mission statement and objectives.	2	Real Estate: Agree	
1.3	Develop a security plan for 100 Alemany Boulevard.	2	Real Estate: Agree	
1.4	Develop a parking and traffic plan for 100 Alemany Boulevard in conjunction with the San Francisco Municipal Transportation Agency and neighborhood representatives that includes discussions with the San Francisco Public Utilities Commission Director of Real Estate Services on the best use of the two adjacent properties owned by the PUC.	2	Real Estate: Agree, With Conditions	Agree, if sufficient funding is made available for traffic plan. Discussions ongoing with PUC to secure control of two adjacent properties, funding demand of PUC has been challenging issue to overcome.

	<b>Recommendation</b>	<b>Priority</b>	<b>Department Response</b>	<b>Implementation Status/ Comments</b>
	<b>The Board of Supervisors should:</b>			
1.5	Revise Administrative Code Chapter 9A to transfer official management and operating responsibilities from the Agricultural Commissioner to the Director of Real Estate.	2	Agricultural Commissioner: Agree  Real Estate: Agree	Agricultural Commissioner: Currently, the Director of Real Estate is responsible for managing and operating the Alemany Certified Farmers Market. The Administrative Code Chapter 9A should be amended to correctly reflect the official responsibility for the market.  Real Estate: Drafts already underway, working in conjunction with Agricultural Commissioner
1.6	Direct the Agricultural Commissioner to deliver a 2010 farmers' market needs assessment to the Clerk of the Board of Supervisors.	1	Agricultural Commissioner: Agree	The Agricultural Commissioner is in the process of completing the 2009/2010 Report. Interviews were conducted and data collected in 2009. This information will be used to prepare the Certified Farmers Market Needs Assessment.
	<b>The Director of Real Estate should direct Real Estate Division staff to:</b>			
2.1	Establish a facilities and maintenance plan. The plan should include a formal assessment, including cost estimates and a ranking of repair and improvement needs, for 100 Alemany Boulevard such as (1) roof repairs; (2) asphalt repaving; (3) perimeter fencing and other security upgrades; and (4) improved signage, among others.	2	Real Estate: Agree	This will require allocation of already limited engineering resources to perform assessment, however.

	<b>Recommendation</b>	<b>Priority</b>	<b>Department Response</b>	<b>Implementation Status/ Comments</b>
2.2	Evaluate the compensation arrangement between the Real Estate Division and the Sealer of Weights and Measures as part of a broader assessment of potential revenue enhancement measures for 100 Alemany Boulevard. The assessment should include a continuation of the exploration of new weekday uses for the property and adjustments to the producer fee schedule. Further, if the Director of Real Estate chooses to continue the arrangement between the Sealer of Weights and Measures, the Real Estate Division should formalize the agreement.	3	Agricultural Commissioner: Agree  Real Estate: Agree	The Agricultural Commissioner/Sealer of Weights and Measures agrees that a formalized agreement for the use of the taxi inspection facility, parking lot and restrooms should be developed and executed.
2.3	Establish policies and procedures for managing turnover of food and beverage vendors to enable the Division to maximize opportunities for new vendors to sell products at the market and to maximize revenues from such vendors.	1	Real Estate: Agree	
	<b>The Board of Supervisors should:</b>			
2.4	Revise Administrative Code Section 9A.7 to (1) assign responsibility for reviewing and recommending Alemany Farmers' Market fees to the Real Estate Division; (2) require annual reviews of fees; and (3) delete references to Non-Certified Producers since the market does not allow non-certified producers to sell at the market.	2	Real Estate: Agree	However, would suggest a review of market fees be on a periodic basis, as economic conditions warrant.
	<b>The Board of Supervisors should:</b>			
3.1	Consider amending the Administrative Code to adopt standard food vendor stall fees for the Alemany Farmers' Market and Alemany Flea Market.	2	Real Estate: Agree	

	<b>Recommendation</b>	<b>Priority</b>	<b>Department Response</b>	<b>Implementation Status/ Comments</b>
3.2	Consider amending the Administrative Code to allow certified farmers to sell other certified farmers' goods at the Alemany Farmers' Market.	2	Agricultural Commissioner: Agree  Real Estate: Agree	The Agricultural Commissioner agrees that the Administrative Code should be amended to reflect consistency with the Direct Marketing Regulations.
	<b>The Director of Real Estate should:</b>			
3.3	Evaluate and revise the existing market rules and regulations to ensure consistency with State and City Administrative Code provisions, including procedures and criteria for, but not limited to, the following: admission of farmers and food vendors into the market; admission of products; sale of other farmers' products; assignment of stalls; and formal disciplinary, appeals and grievance procedures. Present the revised market rules and regulations to all current and potential farmers and food vendors at the market. Require current farmers and food vendors to sign the revised rules and regulations to acknowledge that they are subject to the revised rules and regulations and that the Real Estate Division will enforce them. The signed copies should be filed in the market office.	1	Real Estate: Agree	
3.4	Facilitate the formation of an advisory committee that consists of at least three farmers and/or food vendors with permission to sell at the Alemany Farmers' Market, and facilitate the committee's input and feedback on the revised market rules and regulations.	1	Real Estate: Agree	

	<b>Recommendation</b>	<b>Priority</b>	<b>Department Response</b>	<b>Implementation Status/ Comments</b>
	<b>The County Agricultural Commissioner should:</b>			
3.5	Take corrective action against the Real Estate Division, including the holding of hearings, if the Division does not submit revised market rules and regulations in accordance with the State Administrative Code. The corrective actions should be taken, if necessary, when the Real Estate Division applies for a renewal of the Alemany Farmers’ Market certification.	3	Agricultural Commissioner: Agree	The Agricultural Commissioner agrees to review the Alemany Certified Market Rules for compliance with the State Direct Marketing Regulations at the time of the annual renewal. In the event that the rules are not consistent with the Direct Marketing Regulations, the Agricultural Commissioner will take appropriate action, as authorized by the California Food and Agricultural Code, to ensure corrective action by the Division of Real Estate. This may include an office hearing.
	<b>The Director of Real Estate should:</b>			
4.1	Develop and require farmers’ market managers’ participation in regular, formal trainings on State and local regulations related to certified farmers’ markets; specialized knowledge of agriculture and produce, including when products are in season; and food safety issues.	1	Real Estate: Agree	
4.2	Direct staff to improve the use of existing tools and develop additional resources, such as a check off list for food and agricultural code violations, with the assistance of the Agricultural Commissioner, for stronger compliance reviews.	1	Agricultural Commissioner: Agree	The Agricultural Commissioner agrees to assist the Division of Real Estate.

	<b>Recommendation</b>	<b>Priority</b>	<b>Department Response</b>	<b>Implementation Status/ Comments</b>
	<b>The Director of the Environmental Health Section of the Department of Public Health should:</b>			
4.3	Evaluate the cost of approving permits and conducting inspections, revise existing health permit fees for food vendors that sell at certified farmers’ markets accordingly, and submit these revised fees to the Board of Supervisors for approval.	2	DPH: Partially Agree	We have evaluated the cost of temporary events at certified farmer's markets and set a ceiling of \$250 per quarter for inspection fees. We will reevaluate these fees and forward our final recommendations into the Mayor's fee ordinance for FY 11-12.
4.4	Evaluate and reallocate existing resources to ensure that all certified farmers’ markets are inspected at least twice per year.	1	DPH: Agree	We will evaluate and reallocate existing resources to ensure adequate number of inspections at certified farmer's markets. Increased number of CFM's in SF, along with newer programs such as mobile food facilities and caterers, may justify additional staff.
	<b>The County Agricultural Commissioner should direct staff to:</b>			
4.5	Evaluate and reallocate existing resources to ensure that all certified farmers’ markets are inspected at least twice per year.	1	Agricultural Commissioner: Agree	The Agricultural Commissioner agrees to inspect the Alemany Certified Farmers Market twice per year. The Agricultural Commissioner will direct staff to conduct the twice per year inspections of all Certified Farmers Markets as resources permit.