

1 [Acceptance of Easement - Stanislaus County - San Joaquin Pipeline System Project]

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3 **Resolution approving and authorizing an acceptance of an Easement Deed for a**
4 **perpetual exclusive easement for the installation, construction, operation,**
5 **inspection, maintenance, repair, and replacement of water pipelines, utilities and**
6 **related appurtenances in the real property, being a portion of River Road, located in**
7 **Stanislaus County, required for the San Joaquin Pipeline System Project No.**
8 **CUW37301; adopting findings under the California Environmental Quality Act;**
9 **adopting findings that the conveyance is consistent with the City's General Plan and**
10 **Eight Priority Policies of City Planning Code Section 101.1; and authorizing the**
11 **Director of Property to execute documents, make certain modifications, and take**
12 **certain actions in furtherance of this resolution.**

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14 WHEREAS, The San Francisco Public Utilities Commission ("SFPUC") has
15 developed a project known as the San Joaquin Pipeline System Project (also commonly
16 referred to as the SJPL System Project, Project No.CUW37301, and herein as the
17 "Project"), a water infrastructure project included as part of the Water System Improvement
18 Program ("WSIP"). The Project is located in Tuolumne, Stanislaus, and San Joaquin
19 Counties, beginning at the Oakdale Portal in Tuolumne County, and ending at the Tesla
20 Portal in San Joaquin County. The Project includes, among other related features, the
21 construction of two new facility crossovers (Emery and Pelican), two new throttling stations
22 (MP 50.57 Northeast of Willms Road and MP 55.32), Oakdale Portal improvements
23 including a new valve house, upgrading the discharge valves at Cashman Creek and a new
24 discharge valve at the California Aqueduct, construction of a fourth pipeline segment
25 (Eastern Segment approximately 6.5 miles from Oakdale Portal (MP 49.84) to near Fogarty

1 Road (MP 56.50) and a tie-in vault), construction of a fourth pipeline segment (Western
2 Segment approximately 11 miles from west of the San Joaquin River to Tesla Portal), a
3 new truss bridge aerial structure to carry SJPL No. 4 over the California Aqueduct, and a
4 discharge structure at the Pelican Crossover involving intermittent drainage to the San
5 Joaquin River, and discharge of water to U.S. Fish and Wildlife Service San Joaquin River
6 National Wildlife Refuge, to irrigate a managed wetland area; and

7 WHEREAS, the objectives of the Project are to improve delivery reliability and
8 provide operational flexibility during maintenance activities or unplanned outages, as well
9 as to replenish local reservoirs after such events; and

10 WHEREAS, The Project is an improvement facility project approved by the SFPUC as
11 part of the Water System Improvement Program ("WSIP"); and

12 WHEREAS, A Final Program Environmental Impact Report ("PEIR") was prepared for
13 the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No.
14 17734; and

15 WHEREAS, Thereafter the SFPUC approved the WSIP and adopted findings and a
16 Mitigation Monitoring and Reporting Program as required by the California Environmental
17 Quality Act ("CEQA") on October 30, 2008 by Resolution No. 08-0200; and

18 WHEREAS, an environmental impact report ("EIR") as required by CEQA was
19 prepared for the Project in Planning Department File No. 2007.01 18E; and

20 WHEREAS, The Final EIR ("FEIR") for the Project was certified by the San
21 Francisco Planning Commission on July 9, 2009 by Motion No. 17917; and

22 WHEREAS, The FEIR prepared for the Project is tiered from the PEIR, as
23 authorized by and in accordance with CEQA and the CEQA Guidelines; and

24 WHEREAS, On July 14, 2009, the San Francisco Public Utilities Commission
25 (SFPUC), by Resolution No. 09-0119, a copy of which is included in Board of Supervisors

1 File No. 090980 and which is incorporated herein by this reference: (1) approved the
2 Project; (2) adopted findings (CEQA Findings), including the statement of overriding
3 considerations, and a Mitigation Monitoring and Reporting Program ("MMRP") required by
4 CEQA; (3) authorized the General Manager to negotiate with Stanislaus County regarding
5 the issuance of permits and other related agreements or instruments necessary or
6 desirable in connection with the Project, and (4) authorized the General Manager to seek
7 the Board of Supervisors' approval of and, if approved, to execute certain necessary
8 agreements and deeds, which the SFPUC staff will pursue and submit to the Board of
9 Supervisors at a later date; and

10 WHEREAS, The Project files, including the FEIR, PEIR and SFPUC Resolution No.
11 09-0119 have been made available for review by the Board and the public, and those files
12 are considered part of the record before this Board; and

13 WHEREAS, The Board of Supervisors has reviewed and considered the information
14 and findings contained in the FEIR, PEIR and SFPUC Resolution No. 09-0119, and all
15 written and oral information provided by the Planning Department, the public, relevant
16 public agencies, SFPUC and other experts and the administrative files for the Project; and

17 WHEREAS, This Board, by Resolution No. 369-09 adopted on September 22, 2009,
18 a copy of which is on file with the Clerk of the Board of Supervisors in File No. 090980 and
19 which is incorporated herein by this reference and considered part of the record before this
20 Board, adopted findings under CEQA related to the Project, including the statement of
21 overriding considerations and the MMRP; and

22 WHEREAS, In connection with the Project and pursuant to the authority provided for
23 in SFPUC Resolution No. 09-0119, the General Manager has negotiated a Memorandum of
24 Agreement between the City and Stanislaus County (the "MOA"), a copy of which is on file
25 with the Clerk of the Board of Supervisors under File No. 110247; which is

1 incorporated herein by reference and is considered part of the record before this Board;
2 and

3 WHEREAS, Pursuant to the terms and conditions of the MOA, Stanislaus County
4 will grant to City a perpetual, exclusive easement for the installation, construction,
5 operation, inspection, maintenance, repair and replacement of water pipelines, utilities and
6 related appurtenances in real property located under and across River Road in Stanislaus
7 County, and

8 WHEREAS, A copy of the proposed Easement Deed (the "Easement Deed")
9 between Stanislaus County, as Grantor, and the City, as Grantee, is on file with the Clerk of
10 the Board of Supervisors under File No. 110247; which is incorporated
11 herein by reference and is considered part of the record before this Board; and

12 WHEREAS, The Director of Planning, by letter dated June 29, 2009, found that the
13 purchase of all the necessary property rights for the Project, is consistent with the City's
14 General Plan and with the Eight Priority Policies of City Planning Code Section 101.1,
15 which letter is on file with the Clerk of the Board of Supervisors under File No. 090980, and
16 which letter is incorporated herein by this reference; now, therefore, be it

17 RESOLVED, The Board has reviewed and considered the FEIR and record as a whole,
18 finds that the FEIR is adequate for its use as the decision making body for the action taken
19 herein and hereby incorporates by reference the CEQA findings contained in Resolution No.
20 369-09; and, be it

21 FURTHER RESOLVED, The Board finds that the Project mitigation measures adopted
22 by the SFPUC will be implemented as reflected in and in accordance with the MMRP; and, be
23 it

24 FURTHER RESOLVED, The Board finds that since the FEIR was finalized, there
25 have been no substantial project changes and no substantial changes in the Project

1 circumstances that would require major revisions to the FEIR due to the involvement of
2 new significant environmental effects or an increase in the severity of previously identified
3 significant impacts, and there is no new information of substantial importance that would
4 change the conclusions set forth in the FEIR; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors of the City and County of
6 San Francisco hereby finds that the easement to be conveyed to City pursuant to the
7 Easement Deed is consistent with the General Plan and with the Eight Priority Policies of
8 city planning Code Section 101.1 for the same reasons as set forth in the letter of the
9 Director of Planning dated June 29, 2009, and hereby incorporates such findings by
10 references as though fully set forth in this resolution; and, be it

11 FURTHER RESOLVED, That in accordance with the recommendations of the Public
12 Utilities Commission and the Director of Property, the Board of Supervisors hereby
13 approves the Easement Deed and the transaction contemplated thereby in substantially the
14 form of such instrument presented to this Board; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
16 Property to enter into any additions, amendments or other modifications to the Easement
17 Deed (including, without limitation, the attached exhibits) that the Director of Property
18 determines are in the best interest of the City, that do not increase the consideration for the
19 road easements or otherwise materially increase the obligations or liabilities of the City, and
20 are necessary or advisable to complete the transaction contemplated in the Easement
21 Deed and effectuate the purpose and intent of this resolution, such determination to be
22 conclusively evidenced by the execution and delivery by the Director of Property of the
23 Easement Deed and any amendments thereto; and, be it

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1 FURTHER RESOLVED, That the Director of Property is hereby authorized and
2 urged, in the name and on behalf of the City and County, to accept the Easement Deed
3 from Stanislaus County upon the closing in accordance with the terms and conditions of the
4 MOA and the Easement Deed, and to take any and all steps (including, but not limited to,
5 the execution and delivery of any and all certificates, agreements, notices, consents,
6 escrow instructions, closing documents and other instruments or documents) as the
7 Director of Property deems necessary or appropriate in order to consummate the
8 conveyance of the easement pursuant to the MOA or the Easement Deed, or to otherwise
9 effectuate the purpose and intent of this resolution, such determination to be conclusively
10 evidenced by the execution and delivery by the Director of Property of any such
11 documents.

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RECOMMENDED:

John Updike
Acting Director of Property