

1 [Agreement to Purchase an Access and Communication Easement in Tuolumne County]

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3 **Resolution approving and authorizing an agreement for the purchase of a perpetual,**
4 **nonexclusive easement for access and installation of communications equipment in**
5 **Tuolumne County (the "Easement"), for a purchase price of \$9,600, to facilitate and**
6 **implement the project to upgrade the Hetch Hetchy Communications System;**
7 **adopting environmental findings and findings under San Francisco Planning Code**
8 **Section 101.1; and authorizing the Director of Property and/or the General Manager**
9 **of the San Francisco Public Utilities Commission to execute documents, make**
10 **certain modifications and take certain actions in furtherance of this Resolution.**

11

12 WHEREAS, The San Francisco Public Utilities Commission ("SFPUC") developed a
13 project description for the improvement of the Hetch Hetchy communications system,
14 otherwise known as Project No. CUH93101 (the "Project"); and,

15 WHEREAS, The objectives of the Project are to comply with FCC requirements to
16 vacate the 2 GHz band; to replace and update aged and obsolete components of the
17 communication system; to add new critical communication sites to the system; to provide
18 the foundation infrastructure to allow for the option of separate or integrated
19 communications for Hetch Hetchy Water & Power, the National Park Service and the
20 United States Forest Service in the future; to provide opportunities to improve the
21 communication reliability for the prospective health and safety of staff and for emergency
22 response; and to provide the foundation infrastructure to enable improvements to be made
23 for communication reliability for dam and facility security in the future; and,

24 WHEREAS, A Draft Mitigated Negative Declaration (MND) for the Project was
25 prepared and published for public review on October 2, 2007; and,

1 WHEREAS, Public comments on the Draft MND were received between October 2,
2 2007 and November 2, 2007; and,

3 WHEREAS, On April 1, 2008, the Planning Department reviewed and considered
4 the Final MND in Planning File No. 2005.0883E and found that the contents of the Final
5 MND and the procedures through which the Final MND was prepared, publicized and
6 reviewed complied with the provisions of the California Environmental Quality Act (CEQA)
7 and the CEQA Guidelines in Chapter 31 of the San Francisco Administrative Code
8 ("Chapter 31") and found further that the Final MND was adequate, accurate and objective,
9 reflected the independent analysis and judgment of the Department of City Planning and
10 the Planning Commission, and that the proposed Project was consistent with the project
11 description contained in the Final MND and would not result in significant impacts not
12 identified in the Final MND or cause significant effects already identified in the Final MND to
13 be substantially more severe; and,

14 WHEREAS, The SFPUC reviewed and considered the information contained in the
15 Final MND, all written and oral information provided by the Planning Department, the
16 public, relevant public agencies, SFPUC and other experts and the administrative files for
17 the Final MND; and,

18 WHEREAS, On April 22, 2008, at a public meeting of the SFPUC, the Commission
19 adopted Resolution No. 08-0073 ("SFPUC Project Approval Resolution"), a copy of which
20 is on file with the Clerk of the Board of Supervisors under File No. 090256, in which the
21 SFPUC: (1) adopted the Final MND and adopted the Mitigation Monitoring and Reporting
22 Program ("MMRP") (Exhibit C to the SFPUC Project Approval Resolution); and
23 (2) approved the Project and authorized staff to proceed with actions necessary to
24 implement the Project, which SFPUC Project Approval Resolution and attachments are
25 incorporated herein by reference; and,

1 WHEREAS, The SFPUC Project Approval Resolution is on file with the Clerk of the
2 Board of Supervisors in File No. 090256 and is incorporated herein by reference; the Board
3 of Supervisors has had the opportunity to review and consider the Final MND and the
4 administrative record, which is located at the Planning Department at 1650 Mission Street,
5 Suite 400, in File No. 2005.0883E; and,

6 WHEREAS, The Agreement as approved herein is consistent with the Project
7 description contained in the Final MND; there is no new information of substantial
8 importance that would suggest that the Project would result in significant impacts not
9 identified in the Final MND or cause significant effects already identified in the Final MND to
10 be substantially more severe; and,

11 WHEREAS, The SFPUC Project Approval Resolution included findings (Exhibit A to
12 the SFPUC Project Approval Resolution) regarding the Project's potential environmental
13 effects, the sufficiency of mitigation measures and the responsibility for implementing
14 mitigation measures as set forth in the MMRP; and,

15 WHEREAS, The SFPUC has adopted the mitigation measures identified in the
16 SFPUC CEQA findings, including implementation and monitoring thereof; and,

17 WHEREAS, The Board of Supervisors has reviewed and considered the SFPUC
18 Project Approval Resolution made with respect to the approval of the Project, and the
19 record as a whole in exercising its independent analysis and judgment with respect to the
20 Easement for this Project; and,

21 WHEREAS, On December 9, 2008, at a public meeting of the SFPUC, the
22 Commission (A) reviewed and considered the Final MND and reaffirmed the findings and
23 the MMRP adopted in the SFPUC Project Approval Resolution; and (B) further found there
24 is no substantial evidence that the proposed Project, given the implementation of the
25 mitigation measures, could have a significant effect on the environment as shown in the

1 analysis of the Final MND, and further found that since the MND was finalized, there have
2 been no substantial Project changes and no substantial changes in Project circumstances
3 that would require major revisions to the Final MND due to the involvement of new
4 significant environmental effects or an increase in the severity of previously identified
5 significant impacts, the acquisition of the Easement will not require revisions to the Final
6 MND due to the involvement of new significant environmental effects or substantially
7 increase in the severity of previously identified significant effects, and there is no new
8 information of substantial importance that would change the conclusions set forth in the
9 Final MND; and (C) adopted Resolution No. 08-0228, a copy of which is on file with the
10 Clerk of the Board of Supervisors under File No. 090256, approving the purchase of this 50'
11 wide and approximately 5,133' long Easement in Tuolumne County for road and utility line
12 purposes, for \$9,600, to facilitate and implement the Project; and,

13 WHEREAS, A copy of the Agreement of Purchase and Sale of Real Estate (the
14 "Agreement") between the City, as Buyer, and Sierra Pacific Industries, as Seller, for the
15 purchase of the Easement is on file with the Clerk of the Board of Supervisors under File
16 No. 090256; and,

17 WHEREAS, Although an independent MAI appraisal was prepared in August 2007,
18 which valued the Easement at \$5,900, a negotiated settlement has been reached at
19 \$9,600, which the Director of Property believes is a fair and reasonable settlement; and,

20 WHEREAS, The Director of Planning, by letter dated June 8, 2007, found that the
21 acquisition of the Easement contemplated by the Agreement, is consistent with the City's
22 General Plan and with the Eight Priority Policies of City Planning Code Section 101.1,
23 which letter is on file with the Clerk of the Board of Supervisors under File No. 090256, and
24 which letter is incorporated herein by this reference; now, therefore, be it

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1 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
2 hereby finds that the Agreement is consistent with the General Plan and with the Eight
3 Priority Policies of City Planning Code Section 101.1 for the same reasons as set forth in
4 the letter of the Director of Planning dated June 8, 2007, and hereby incorporates such
5 findings by reference as though fully set forth in this resolution; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors has reviewed and
7 considered SFPUC Resolution No. 08-0073 authorizing the Project, and hereby adopts that
8 SFPUC Project Approval Resolution as its own with respect to the Project, including the
9 MMRP and adopts the MND; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors hereby finds there is no
11 substantial evidence that the proposed Project, given the implementation of the mitigation
12 measures, could have a significant effect on the environment as shown in the analysis of
13 the Final MND, and further finds that since the MND was finalized, there have been no
14 substantial Project changes and no substantial changes in Project circumstances that
15 would require major revisions to the Final MND due to the involvement of new significant
16 environmental effects or an increase in the severity of previously identified significant
17 impacts, the acquisition of the Easement will not require revisions to the Final MND due to
18 the involvement of new significant environmental effects or substantially increase in the
19 severity of previously identified significant effects, and there is no new information of
20 substantial importance that would change the conclusions set forth in the Final MND; and,
21 be it

22 FURTHER RESOLVED, That in accordance with the recommendations of the
23 SFPUC and the Director of Property, the Board of Supervisors hereby approves the
24 Agreement and the transaction contemplated thereby in substantially the form of such
25 Agreement presented to this Board; and, be it

1 FURTHER RESOLVED, That all actions heretofore taken by the officers of the City
2 with respect to the Agreement are hereby approved and ratified; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors authorizes the General
4 Manager of the SFPUC and/or the Director of Property to execute and deliver the
5 Agreement to Sierra Pacific Industries, and to perform all acts required of the City
6 thereunder; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors authorizes the General
8 Manager of the SFPUC and/or the Director of Property to enter into any additions,
9 amendments or other modifications to the Agreement (including, without limitation, the
10 attached exhibits) that the General Manager of the SFPUC or the Director of Property
11 determines, in consultation with the City Attorney, are in the best interest of the City, that do
12 not increase the purchase price for the Easement or otherwise materially increase the
13 obligations or liabilities of the City, are necessary or advisable to complete the transaction
14 contemplated in the Agreement and effectuate the purpose and intent of this Resolution,
15 and are in compliance with all applicable laws, including the City's Charter; and, be it

16 FURTHER RESOLVED, That the Director of Property is hereby authorized and
17 urged, in the name and on behalf of the City and County, to accept the deed to the
18 Easement from the Seller upon the closing in accordance with the terms and conditions of
19 the Agreement, and to take any and all steps (including, but not limited to, the execution
20 and delivery of any and all certificates, agreements, notices, consents, escrow instructions,
21 closing documents and other instruments or documents) as the Director of Property deems
22 necessary or appropriate in order to consummate the purchase of the Easement pursuant
23 to the Agreement, or to otherwise effectuate the purpose and intent of this Resolution, such
24 determination to be conclusively evidenced by the execution and delivery by the Director of
25 Property of any such documents.

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RECOMMENDED:

\$11,000 Available
(includes escrow fees)

Amy L. Brown
Director of Property

Controller

Appropriation:
5T-ACP-CUH964
Watershed Property Purchases