

File No. 091326

Committee Item No. 3
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee BUDGET AND FINANCE

Date 12/9/09

Board of Supervisors Meeting Date _____

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Resolution
<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Budget Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form (for hearings)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract/Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER

(Use back side if additional space is needed)

Attachment B (Mitigation Monitoring + Reporting Programs)

Completed by: Gail Johnson
Completed by: _____

Date 12/4/09
Date _____



An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [CEQA Findings for SFPUC New Irvington Tunnel Project in Alameda County and Fremont.]

2

3 **Resolution adopting findings under the California Environmental Quality Act ("CEQA"),**
4 **including the adoption of a mitigation monitoring and reporting program and a statement**
5 **of overriding considerations related to the New Irvington Tunnel Project, CUW 35901;**
6 **and directing the Clerk of the Board of Supervisors to notify the Controller of this action.**

7

8 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) has developed a
9 project description for the New Irvington Tunnel Project, a water infrastructure project included
10 as part of the Water System Improvement Program (also commonly referred to as the NIT
11 Project and herein as the "Project"). The Project is located in Alameda County and City of
12 Fremont, beginning at the Alameda West Portal near Calaveras Road in Alameda County and
13 ending in Fremont near Mission Boulevard. The Project includes, among other related
14 features, the installation of a 3.5-mile-long tunnel, with a finished internal diameter between
15 8.5 to 10.5 feet, 30 feet to 700 feet underground, reinforced concrete lining, buried portal
16 structures, large diameter pipe lining reinforcement, manifold pipe connections, a 120 feet
17 deep temporary access shaft, temporary and permanent bridge crossing of Alameda Creek,
18 access road and other site improvements, acquisition of necessary temporary and permanent
19 property interests, and environmental mitigation work; and

20 WHEREAS, The objectives of the Project are to improve seismic and delivery reliability
21 of the water system, and provide operational flexibility to allow for planned shutdowns of the
22 existing Irvington Tunnel for inspection and maintenance; and

23 WHEREAS, An environmental impact report ("EIR") as required by the California
24 Environmental Quality Act ("CEQA") was prepared for the Project; and

1 WHEREAS, The Final EIR ("FEIR") was certified by the San Francisco Planning
2 Commission on November 5, 2009 by Motion No. M-17972; and

3 WHEREAS, The FEIR prepared for the Project is tiered from the Water System
4 Improvement Program Environmental Impact Report ("PEIR") adopted by the San Francisco
5 Public Utilities Commission in Resolution No. 08-200 dated October 30, 2008, as authorized
6 by and in accordance with CEQA and the CEQA Guidelines; and

7 WHEREAS, On November 10, 2009, the San Francisco Public Utilities Commission
8 (SFPUC), by Resolution No. 09-190, a copy of which is included in Board of Supervisors File
9 No. 691326 and which is incorporated herein by this reference: (1) approved the Project;
10 and (2) adopted findings (CEQA Findings), including a statement of overriding considerations,
11 and a Mitigation Monitoring and Reporting Program (MMRP) required by CEQA; and

12 WHEREAS, The Project files, including the FEIR, PEIR and SFPUC Resolution No. 09-
13 190 have been made available for review by the Board and the public, and those files are
14 considered part of the record before this Board; and

15 WHEREAS, The Board of Supervisors has reviewed and considered the information
16 and findings contained in the FEIR, PEIR and SFPUC Resolution No. 09-190, and all written
17 and oral information provided by the Planning Department, the public, relevant public
18 agencies, SFPUC and other experts and the administrative files for the Project; and

19 WHEREAS, This Board of Supervisors adopted Ordinance No. 311-08 that placed
20 Water System Improvement Program appropriated funds on Controller's Appropriation
21 Reserve, by project, making release of appropriation reserves by the Controller subject to the
22 prior occurrence of: (1) the SFPUC's and the Board's discretionary adoption of CEQA
23 Findings for each project, following review and consideration of completed project-related
24 environmental analysis, pursuant to CEQA, the State CEQA Guidelines, and Chapter 31 of
25 the San Francisco Administrative Code, where required, and (2) the Controller's certification

1 of funds availability, including proceeds of indebtedness. The ordinance also placed any
2 project with costs in excess of \$100 million on Budget and Finance Committee reserve
3 pending review and reserve release by that Committee. Therefore, the SFPUC has sent a
4 letter to the Budget and Finance Committee requesting review and release of the portion of
5 those funds necessary for the New Irvington Tunnel Project; now, therefore, be it

6 RESOLVED, That the Board of Supervisors has reviewed and considered the FEIR
7 and record as a whole, finds that the FEIR is adequate for its use as the decision-making
8 body for the action taken herein including, but not limited to, approval of the Project and
9 adopts and incorporates by reference as though fully set forth herein the CEQA Findings,
10 including the statement of overriding considerations, and the MMRP contained in Resolution
11 No. 09-190; and be it

12 FURTHER RESOLVED, That the Board finds that the Project mitigation measures set
13 forth in the FEIR and the MMRP and adopted by the SFPUC and herein by this Board will be
14 implemented as reflected in and in accordance with the MMRP; and be it

15 FURTHER RESOLVED, The Board finds that since the FEIR was finalized, there have
16 been no substantial project changes and no substantial changes in Project circumstances that
17 would require major revisions to the FEIR due to the involvement of new significant
18 environmental effects or an increase in the severity of previously identified significant impacts,
19 and there is no new information of substantial importance that would change the conclusions
20 set forth in the FEIR; and be it

21 FURTHER RESOLVED, That the Board directs the Clerk of the Board to forward this
22 Resolution to the Controller.

CITY AND COUNTY



OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET ANALYST

1390 Market Street, Suite 1025, San Francisco, CA 94102 (415) 554-7642
FAX (415) 252-0461

December 3, 2009

TO: Budget and Finance Committee

FROM: Budget Analyst

SUBJECT: December 9, 2009 Budget and Finance Committee Meeting

Items 2 and 3- Files 09-1325 and 09-1326

Department: Public Utilities Commission (PUC)

Items: File 09-1325: Request to release \$256,318,678 previously placed on reserve by the Board of Supervisors for the construction of the New Irvington Tunnel Project, one of 85 projects included in the PUC's Water System Improvement Program (WSIP)¹.

File 09-1326: Resolution adopting findings under the California Environmental Quality Act (CEQA), CEQA Guidelines and San Francisco Administrative Code Chapter 31, including the adoption of a mitigation monitoring and reporting program, related to the funding of the New Irvington Tunnel Project, and directing the Clerk of the Board of Supervisors to notify the Controller of this action.

Amount: \$256,318,678

Source of Funds: Proceeds from the sale of Water Revenue Bonds, previously appropriated by the Board of Supervisors to the PUC in the amount of \$1,923,629,197. Of that amount, \$258,318,678 was allocated to the New Irvington

¹ Propositions A and E, which were approved by the San Francisco voters on November 4, 2002 authorized the issuance of Water Revenue Bonds to finance the PUC's \$4,585,556,000 WSIP, consisting of 85 separate projects designed to provide increased water delivery and seismic reliability throughout the Hetch-Hetchy water system.

Tunnel Project and placed on reserve². On January 28, 2009, the Board of Supervisors released \$2,000,000 from that reserve, such that \$256,318,678 remains on reserve.

Background:

According to Mr. Carlos Jacobo, Budget Director at the PUC, the existing Irvington Tunnel connects the water collected from the Sierra Nevada mountains and the Alameda Creek Watershed to the Bay Area's water distribution pipelines. The existing Irvington Tunnel was completed in 1930 and has served a steadily increasing number of water customers. As a result, the Irvington Tunnel cannot be taken out of service for repairs or maintenance without impacting the water supply to existing customers. In addition, according to Mr. Jacobo, the eastern end of the Irvington Tunnel is within 2,000 feet of the Calaveras Fault, such that in the event of a major earthquake along the Calaveras Fault or any of the smaller nearby faults, significant structural damage to the existing Tunnel could occur.

The proposed New Irvington Tunnel Project would (a) construct a second Irvington Tunnel approximately 12 feet in diameter, 30 to 700 feet below ground, and 3.5 miles long, extending west from the Alameda West Portal to the Irvington Portal in the City of Fremont, and (b) replace the existing Alameda West and Irvington Portals with new, more seismically reliable portals³. The New Irvington Tunnel would be parallel to the existing horseshoe-shaped Irvington Tunnel, separated by approximately 100 to 700 feet. According to Mr. Jacobo, the New Irvington Tunnel would allow the PUC to shut down and repair the existing Irvington Tunnel and greatly improve the seismic reliability of this section of the Hetch Hetchy Water System.

The total estimated cost of the New Irvington Tunnel Project is \$387,703,984. Construction of the Project is anticipated to begin in May of 2010 and be completed within four years, or by approximately March of 2014. Table 1 below summarizes the New Irvington Tunnel Project funding plan, based on data provided by Mr. Jacobo.

² On December 16, 2008, the Board of Supervisors reserved funds for all WSIP projects with appropriations greater than \$100,000,000 (File 08-1453).

³ A portal is the structure at the upstream or downstream end of a tunnel.

Table 1: New Irvington Tunnel Project Funding Plan

All Appropriations Approved by the Board of Supervisors Prior to December 16, 2008	\$31,654,499
Appropriated and Reserved on December 16, 2008 by the Board of Supervisors (File 08-1453)	258,318,678
Anticipated March, 2010 Appropriation Request, Subject to Board of Supervisors Approval	47,730,807
Total Project Cost	\$337,703,984

As shown in Table 1 above, on December 16, 2008, the Board of Supervisors appropriated and placed on reserve \$258,318,678 (File 08-1453) for the New Irvington Tunnel Project.

On January 28, 2009, the Board of Supervisors released \$2,000,000 of the previously appropriated \$258,318,678, (File 08-1222), to fund initial costs for the New Irvington Tunnel Project, including (a) design consultants, (b) environmental compliance consultants, (c) construction management consultants, and (d) in-house PUC staff costs, such that \$256,318,678 remains on reserve (\$258,318,678 less \$2,000,000) for this Project.

As also shown in Table 1 above, Mr. Jacobo anticipates that in March of 2010 the PUC will request an appropriation for the remaining \$47,730,807 needed to complete the construction funding for the New Irvington Tunnel Project, in combination with funding required for other WSIP projects.

Description:

The PUC is now requesting that the Board of Supervisors release (File 09-1325) the remaining \$256,318,678 on reserve to partially fund the construction of the New Irvington Tunnel Project. Table 2 below shows the PUC's anticipated expenditure plan for the \$256,318,678 being requested for release from reserve and the \$47,730,807 in anticipated future appropriations.

Table 2: New Irvington Tunnel Expenditure Plan

Cost Category	Requested Release of Reserve	Future Appropriations	Total
Construction Management ⁴	\$1,000,000	\$18,316,000	\$19,316,000
Construction	253,000,000	28,858,000	281,858,000
Construction Close-Out	0	390,000	390,000
Administrative City Staff	2,318,678	166,807	2,485,485
Total	\$256,318,678	\$47,730,807	\$304,049,485

In August of 2009, the Board of Supervisors approved a \$15,000,000 construction management agreement with Hatch Mott MacDonald for the New Irvington Tunnel project (File 09-0869). Mr. Bajwa Surinderjeet of the PUC advises that the \$1,000,000 requested to be released from reserve for construction management would be used to fund ongoing preliminary construction management contractor services under the previously approved Hatch Mott McDonald contract. Mr. Surinderjeet advises that the requested \$2,318,678 to be released for City staff costs include an estimated: (a) \$1,300,000 for PUC project management, (b) \$300,000 for project funding controls, cost estimating, (c) \$300,000 for City Attorney legal services, and (d) \$418,678 for City security and operational support for the project.

The PUC anticipates (a) issuing a competitive request for construction bids in mid-December, 2009, and (b) awarding a construction contract, in the amount of an estimated \$281,858,000, by April of 2010. The Budget Analyst notes this construction contract would not be subject to Board of Supervisors approval because the PUC is authorized to award construction contracts in any amount without Board of Supervisors approval, pursuant to Section 9.118(b) of the San Francisco Charter.

The PUC is also requesting the Board of Supervisors approval of the proposed resolution to adopt the findings included in the CEQA required environmental report for the New Irvington Tunnel Project (File 09-1326).

⁴ The total construction management costs of \$19,316,000 shown in Table 2 includes (a) \$13,000,000 for the remaining costs for this construction management agreement (\$15,000,000 total construction management agreement less \$2,000,000 previously appropriated), (b) \$2,500,000 for design and engineering support services agreement, and (c) an estimated \$3,816,000 for City construction management and related engineering support.

According to Mr. Jacobo, the San Francisco Planning Commission approved the CEQA required environmental report on November 5, 2009, which identifies project modifications necessary to mitigate the environmental impact of the New Irvington Tunnel Project.

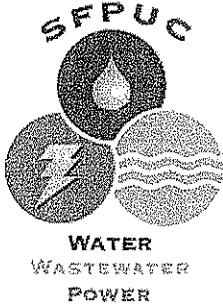
Mr. Jacobo advises that environmental mitigation work and project modifications required by the environmental permits are not anticipated to alter the estimated total project cost of \$337,703,984 (see Table 1 above) or the estimated project completion date of March of 2014. The proposed resolution would also require the Clerk of the Board to notify the Controller that the Board of Supervisors approved the proposed resolution because all WSIP project funds previously appropriated were placed on Controller's reserve, pending the Board of Supervisors' adoption of the relevant CEQA report.

Comment: As noted above, on December 16, 2008, the Board of Supervisors placed on reserve all WSIP projects over \$100,000,000.

The Budget Analyst notes that when the subject funds were placed on reserve approximately one year ago, (a) the required CEQA reports were not completed, (b) the New Irvington Tunnel Project was estimated to cost a total of \$337,161,000 and (c) the Project was anticipated to be completed by March of 2014. As discussed above, (a) approval of the proposed resolution (File 09-1326) would adopt environmental findings required by CEQA, (b) the New Irvington Tunnel Project is still scheduled to be completed by March of 2014, and (c) the Project is currently estimated to cost \$337,703,984, an increase of \$572,984, or less than 0.2 percent.

Recommendations:

1. Approve the requested release of reserved funds (File 09-1325).
2. Approve the proposed resolution adopting environmental findings under CEQA (File 09-1326).



SAN FRANCISCO PUBLIC UTILITIES COMMISSION

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ED HARRINGTON
GENERAL MANAGER

TO: Angela Calvillo, Clerk of the Board of Supervisors

FROM: Nathan Purkiss, 554-3404

File 091326

DATE: 11/13/09

**SUBJECT: SFPUC WSIP New Irvington Tunnel Project
Findings Resolution & Release of Reserves**

Please find the original and 4 copies of a letter requesting a release of reserves for the Water System Improvement New Irvington Tunnel project. Please calendar this matter at the Budget and Finance Committee.

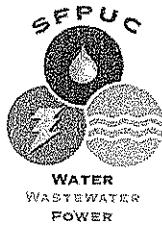
Additionally, please find the original and 4 copies of a resolution attached to this cover letter, along with the supporting documents for introduction on November 24, 2009. Attached is a resolution adopting findings under the California Environmental Quality Act (CEQA) and San Francisco Administrative Code Chapter 31, including the adoption of mitigation monitoring and reporting program, and a statement of overriding considerations related to the New Irvington Tunnel Project, CUW 35901. The Planning Department finalized the Environmental Impact Report, and the Public Utilities Commission adopted CEQA Findings and approved the Project.

***Scheduling Note: Please schedule both the release reserve and EIR findings resolution at the same hearing, as they are related items.**

Departmental representative to receive a copy of the adopted resolution:

Name: Nathan Purkiss Phone: 554-3404

Interoffice Mail Address: 1155 Market Street, 11th Floor



AGENDA ITEM
Public Utilities Commission
City and County of San Francisco



DEPARTMENT Infrastructure Division

AGENDA NO. **#12**

MEETING DATE November 10, 2009

Approve Project-EIR: Regular Calendar
Project Manager: David Tsztoo

CUW35901, Approve Project, New Irvington Tunnel

Summary of Proposed Commission Action:	<p>Approve Water Enterprise, Water System Improvement Program ("WSIP")-funded Project No. CUW35901, New Irvington Tunnel Project (the "Project"); adopt the required California Environmental Quality Act ("CEQA") Findings, including a Statement of Overriding Considerations and the Mitigation Monitoring and Reporting Program ("MMRP"); and authorize the General Manager to implement the Project, in compliance with the Charter and applicable law, and subject to Board of Supervisors approval where required, including the following:</p> <ol style="list-style-type: none">1. In compliance with Government Code Section 7260 <i>et seq.</i>, undertake the process for possible acquisition, for an estimated combined purchase price not to exceed \$1,200,000, of interests (temporary or permanent) in real property located in Alameda County, as follows: (1) Assessor's Parcel # 513-0065-011-02 in Fremont, owned by Malik A. and Barbara E. Alarab, (2) Assessor's Parcel # 513-0065-008-05 in Fremont, owned by David C. Lo, (3) Assessor's Parcel # 096-0080-004 in Sunol, owned by Stanley and Carolyn Garcia, (4) Assessor's Parcel # 525-1667-001 in Fremont, owned by J.P. Mobasher and Daphne Huey, (5) Assessor's Parcel # 513-0461-001 in Fremont, owned by J.P. Mobasher, and (6) Assessor's Parcel # 096-0001-020-03 in Sunol, owned by Kenneth and Janice Mackin.2. Negotiate and execute separate Memoranda of Agreement ("MOAs") with Alameda County and the City of Fremont to facilitate and coordinate the proposed construction work.3. Obtain from CalTrans, Alameda County and the City of Fremont,
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APPROVAL:

DEPARTMENT /
BUREAU

FINANCE Todd L. Rydstrom

COMMISSION
SECRETARY

Mike Housh

GENERAL
MANAGER Ed Harrington

	<p>as necessary, encroachment permits or other permits for temporary construction activities.</p> <p>4. Exercise any City or San Francisco Public Utilities Commission (SFPUC) right under any deed, lease, permit, or license as necessary, and negotiate and execute with owners or occupiers of property interests or utility facilities or improvements on, along, over, adjacent to, or in the vicinity of the SFPUC's right of way, new or amended lease, permit, license, encroachment-removal or other project related agreements, if necessary for the Project.</p> <p>5. Obtain permits or approvals by state and federal regulatory agencies, including but not limited to: U.S. Army Corps of Engineers, State Historic Preservation Officer, U.S. Fish & Wildlife Service, California Department of Fish and Game, San Francisco Regional Water Quality Control Board, Bay Area Air Quality Management District and California Department of Transportation.</p> <p>Implementation actions will include advertising for construction bids, however, staff will seek Commission approval to award the construction contract at a future date.</p>
Background:	<p>The Project is one of the key regional projects to be completed as part of the WSIP. Approval of these actions will allow the SFPUC to proceed with improvements to the regional water system that will increase the system's overall seismic and delivery reliability.</p> <p>The existing Irvington Tunnel, built between 1928 and 1931, is the only facility that conveys water from Hetch Hetchy and the Alameda watershed via the Alameda Siphons in the Sunol Valley to the Bay Division Pipelines (BDPLs) in Fremont. Internal inspection for this type of tunnel typically should occur every 5 to 10 years; however, because there is no redundancy for this part of the system and the tunnel has served a steadily increasing number of Bay Area residents, the tunnel has not been taken out of service for internal inspection since 1966. Due to the age of the tunnel and anticipated deterioration and proximity to the active Hayward, Calaveras, and San Andreas faults and several inactive faults, the performance of the tunnel following a major seismic event is uncertain. Failure of the tunnel or the need to conduct major maintenance and/or repair of the tunnel would severely constrain the SFPUC's ability to transport water to Bay Area customers.</p> <p>The SFPUC performed several years of planning and engineering evaluation of numerous alternative solutions to ensure reliable water transmission from the Alameda Siphons to the BDPLs and identified the proposed project as the engineering option that best meets all of the SFPUC's objectives to provide reliable water delivery. In furtherance of these studies, the SFPUC authorized the General</p>

	<p>Manager in Commission Resolution No. 08-0019 to enter into year to year permits with third party property owners in the vicinity of the Project to perform species and habitat surveys, geotechnical exploration and groundwater monitoring.</p> <p>Key project components include:</p> <ul style="list-style-type: none">• A redundant, seismically robust 3.5-mile water transmission tunnel approximately parallel to the existing tunnel with an internal diameter of 8.5 to 10.5 feet and reinforced concrete and steel (at faults) liner buried between 30 and 700 feet with a projected 100 year lifetime;• Buried portal structures (vaults) at each end of the tunnel to securely house the tunnel ends and associated electrical and water quality equipment;• Pipeline connections from the new tunnel to the existing Alameda Siphons and Bay Division Pipelines and to the recently approved new Alameda Siphon No. 4 and BDPL No. 5;• Hardening of the existing Irvington Tunnel portals for improved security; and• Replacement of the existing bridges over Alameda Creek with new bridges that reduce encroachment into the creek channel and banks. <p>Construction would be completed in about three and a half years. To expedite construction, an intermediate shaft is planned at Interstate-680 and Vargas Road. This will allow the tunnel to be excavated in four directions, simultaneously. Tunneling distance and activities in the City of Fremont have been minimized to reduce impacts to the adjacent neighborhoods.</p> <p>Once the new tunnel is constructed, the system would have adequate redundancy to permit inspection and rehabilitation of the existing tunnel as required while continuing to provide reliable water supply and a new tunnel designed to withstand a major earthquake. Additionally, the new tunnel would be connected to the new Alameda Siphon No. 4 and BDPL No. 5 thereby increasing redundancy with connections to existing facilities as well as to newly constructed facilities that will also be more seismically robust. The two tunnels will eventually be operated simultaneously and maintained on a rotating basis.</p>
Result of Inaction:	The SFPUC will not be able to proceed with plans to implement the New Irvington Tunnel Project, and the system will remain limited in its capacity to reliably transmit water to meet customer demands after a major seismic event and perform needed repairs to the existing tunnel.

Description of Project Action:	<ol style="list-style-type: none">1. In order to move forward with the Project, the Commission must review and consider the certified Final EIR, and adopt the Project CEQA Findings and the MMRP, including the Statement of Overriding Considerations. The Final EIR was provided to each member of the Commission. The CEQA document was developed by the San Francisco Planning Department.<p>The Final EIR identified and analyzed Project-specific significant impacts and found potentially significant impacts within the resource areas of land use, aesthetics, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, transportation and traffic, air quality, noise, minerals and energy, agricultural resources, and recreation. Potentially significant impacts will be reduced to a less than significant level by implementing the mitigation measures in the Final EIR and the MMRP during the design, construction, and post-construction phases, except for those significant and unavoidable impacts caused by the Project and by the WSIP water supply decision, to which the Project, as a component of the WSIP, will contribute and which were identified in the Final EIR. These significant and unavoidable impacts include impacts to: paleontological resources during tunneling of the first 50 feet at the Irvington Portal work area in the City of Fremont, fishery resources in Crystal Springs Reservoir (Upper and Lower), effects on flow along Alameda Creek below the Alameda Creek Diversion Dam, and growth inducement. The CEQA Findings contain a Statement of Overriding Considerations justifying Project approval notwithstanding the potential for significant and unavoidable impacts, as authorized by CEQA. The CEQA Findings and MMRP are attached as Exhibits A and B to the Commission Resolution for this agenda item.</p>2. Upon approval of the Project, SFPUC staff will proceed to implement the Project, including advertising for construction bids, and obtaining necessary agreements and permits. Staff will seek Commission approval to award the construction contract at a future date.3. The Resolution authorizes the General Manager, and the Director of Real Estate, to undertake the process, in compliance with Government Code Section 7260 et seq., the Charter and all applicable laws, and seek Board of Supervisors' approval if necessary, and provided any necessary Board approval is obtained, accept and execute final agreements, in such form approved by the City Attorney, for possible acquisition, for an estimated combined purchase price not to exceed \$1,200,000, of interests (temporary or permanent) in real property, located in Alameda County, in: (1) Assessor's Parcel # 513-0065-011-02 in Fremont, owned by Malik A. and Barbara E. Alarab, (2) Assessor's Parcel # 513-0065-008-05 in Fremont, owned by David C. Lo, (3) Assessor's Parcel # 096-0080-004 in Sunol, owned by
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Stanley and Carolyn Garcia, (4) Assessor's Parcel # 525-1667-001 in Fremont, owned by J.P. Mobasher and Daphne Huey, (5) Assessor's Parcel # 513-0461-001 in Fremont, owned by J.P. Mobasher, and (6) Assessor's Parcel # 096-0001-020-03 in Sunol, owned by Kenneth and Janice Mackin. The General Manager will confer with the Commission during the negotiation process, and report to the Commission on all agreements submitted to the Board of Supervisors for approval.

4. The Project will involve work in the following local jurisdictions: City of Fremont and Alameda County. The Resolution authorizes the General Manager to negotiate separate Memoranda of Agreement ("MOAs") with each such local jurisdiction to facilitate and coordinate the proposed construction work. Each MOA will be in a form that the General Manager determines is in the public interest and is acceptable, necessary, and advisable to effectuate the purposes and intent of the Commission Resolution, and in compliance with the Charter and all applicable laws, and approved by the City Attorney. The MOAs may address matters, including but not limited to: (a) SFPUC's commitments to restore or replace, pursuant to agreed specifications, certain improvements owned by the respective local jurisdictions, (b) cooperative procedures and fees relating to local permits, inspections, and communications to the public concerning Project construction, (c) the form of necessary encroachment permits or other real property licenses for Project construction, and (d) the parties' respective indemnification and insurance obligations, subject to the San Francisco Risk Manager's approval.

5. The Projects may require that the SFPUC obtain from CalTrans, Alameda County or the City of Fremont, various necessary encroachment permits or other permits for temporary construction activities in or around local roadways, and these permits shall be consistent with SFPUC existing fee or easement interests, where applicable. The terms and conditions of these permits will require SFPUC to indemnify the respective jurisdictions, and the terms of the indemnity obligation will be subject to the San Francisco Risk Manager's approval. The Commission Resolution will authorize the General Manager to agree to such other terms and conditions (e.g. maintenance, repair, and relocation of improvements) that are in the public interest, and in the judgment of the General Manager, in consultation with the City Attorney, are reasonable and appropriate for the scope and duration of the requested use.

6. For portions of the City-owned SFPUC right of way where the Project work will occur, the SFPUC has issued leases, permits, or licenses to certain parties to use the right of way for various purposes, and in some instances there is apparent use of City-owned property by other parties for which there is no evidence of SFPUC authorization, or other parties hold property rights or interests on lands along, over, adjacent to or in the vicinity of the right of way that may be affected

	<p>by the Project. The Resolution authorizes the General Manager, or his designee, to (i) exercise any City or SFPUC right under any deed, lease, permit, or license as necessary or advisable in connection with the Project, and (ii) negotiate and execute with owners or occupiers of property interests or utility facilities or improvements, on, along, over, adjacent to or in the vicinity of, the SFPUC's right of way, new or amended leases, permits, licenses, encroachment-removal or other project related agreements (each, a "Use Instrument") with respect to uses and structures, fences, and other above-ground or subterranean improvements or interests, orchards, trees, or other vegetation. The General Manager's authority so granted will include the authority, if necessary for the Project, to enter into, amend, or exercise rights under existing or new Use Instruments with any owner or occupier of property on, along, over, adjacent to or in the vicinity of the SFPUC right of way, including Use Instruments required to accommodate project construction activities or schedule, or to implement Project mitigation measures related to groundwater management, restoration of water service, vegetation and habitats, and settlement monitoring. Any such new or amended Use Instrument will be in a form that the General Manager determines is in the public interest and is acceptable, necessary, and advisable to effectuate the purposes and intent of this Resolution, and in compliance with the Charter and all applicable laws, and approved as to form by the City Attorney.</p> <p>7. Implementation of the Project mitigation measures will involve consultation with, or required approvals by, state and federal regulatory agencies, including but not limited to the following: U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service, California Department of Transportation, State Historic Preservation Officer, California Department of Fish and Game, San Francisco Regional Water Quality Control Board, and Bay Area Air Quality Management District. The Resolution authorizes the General Manager to apply for, and if necessary, seek Board of Supervisors' approval, and, if approved, accept and execute required approvals by these regulatory agencies. To the extent that the terms and conditions of the required approvals will require SFPUC to indemnify other parties, those indemnity obligations are subject to review and approval by the San Francisco Risk Manager. The General Manager is authorized to agree to such terms and conditions that are within the lawful authority of the agency to impose, in the public interest, and, in the judgment of the General Manager, in consultation with the City Attorney, are reasonable and appropriate for the scope and duration of the required approval, as necessary for the Project.</p>
Environmental Review:	The San Francisco Planning Commission certified a Final Environmental Impact Report (EIR) for Project No. CUW35901, on November 5, 2009.
Recommendation:	SFPUC staff recommends that the Commission adopt the attached

	resolution.
Attachments:	<ul style="list-style-type: none">1. SFPUC Resolution2. Attachment A: CEQA Findings3. Attachment B: Mitigation Monitoring and Reporting Program

S

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. _____

WHEREAS, San Francisco Public Utilities Commission (SFPUC) staff have developed a project description under the Water System Improvement Program (WSIP) for the improvements to the regional water supply system, otherwise known as Project No. CUW35901, New Irvington Tunnel Project; and

WHEREAS, The objectives of the Project are to:

Within 24 hours after a major earthquake on the Calaveras fault, allow for reliable transmission of a minimum of 120 mgd of water between SFPUC facilities in the Sunol Valley and the Bay Division Pipeline (BDPL) transmission system starting in the City of Fremont;

Within 24 hours after a major earthquake on the San Andreas or Hayward fault, allow for reliable transmission of a minimum of 229 mgd of water between SFPUC facilities in the Sunol Valley and the BDPL transmission system starting in the City of Fremont;

Within 30 days after a major earthquake on the Calaveras fault, allow for reliable transmission of a minimum of 160 mgd of water between the Sunol Valley and the BDPL transmission system;

Increase delivery reliability by providing operational flexibility to allow for planned shutdowns of the existing Irvington Tunnel for inspection, maintenance, and repair while providing for a maximum capacity of 320 mgd monthly average flow;

Increase delivery reliability by allowing for a planned outage of the existing Irvington Tunnel (e.g., shutdown for maintenance) concurrent with an unplanned outage (e.g., emergency outage due to facility failure) of any of the BDPLs or San Joaquin Pipelines while delivering a maximum flow of about 246 mgd between the Sunol Valley and BDPL transmission system during the outages; and

WHEREAS, On November 5, 2009, the Planning Commission reviewed and considered the Final Environmental Impact Report (FEIR) in Planning Department File No. 2005.0162E, consisting of the Draft EIR, the Comments and Responses document and Errata Sheet(s), and found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the FEIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said FEIR in compliance with CEQA and the CEQA Guidelines in its Motion No. _____; and

WHEREAS, This Commission has reviewed and considered the information contained in the FEIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC and other experts and the administrative files for the Project and the FEIR; and

WHEREAS, The Project and FEIR files have been made available for review by the SFPUC and the public in File No. 2005.0162E, at 1650 Mission Street, Fourth Floor, San Francisco, California; and those files are part of the record before this Commission; and

WHEREAS, SFPUC staff prepared proposed findings, as required by CEQA, (CEQA Findings) in Attachment A to this Resolution and a proposed Mitigation, Monitoring and Reporting Program (MMRP) in Attachment B to this Resolution, which material was made available to the public and the Commission for the Commission's review, consideration and action; and

WHEREAS, The Project is a capital improvement project approved by this Commission as part of the Water System Improvement Program (WSIP); and

WHEREAS, A Final Program EIR (PEIR) was prepared for the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No. 17734; and

WHEREAS, Thereafter, the SFPUC approved the WSIP and adopted findings and a MMRP as required by CEQA on October 30, 2008 by Resolution No. 08-200; and

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

WHEREAS, The PEIR has been made available for review by the SFPUC and the public, and is part of the record before this Commission; and

WHEREAS, The SFPUC staff will comply with Government Code Section 7260 et seq. statutory procedures for possible acquisition of interests (temporary or permanent) in the following real property in Alameda County: (1) Assessor's Parcel # 513-0065-011-02 in Fremont, owned by Malik A. and Barbara E. Alarab , (2) Assessor's Parcel #.513-0065-008-05 in Fremont, owned by David C. Lo, (3) Assessor's Parcel # 096-0080-004 in Sunol, owned by Stanley and Carolyn Garcia, (4) Assessor's Parcel # 525-1667-001 in Fremont, owned by J.P. Mobasher and Daphne Huey, (5) Assessor's Parcel # 513-0461-001 in Fremont, owned by J.P. Mobasher, and (6) Assessor's Parcel # 096-0001-020-03 in Sunol, owned by Kenneth and Janice Mackin. The total combined purchase price for the acquisition of these property interests is estimated to not exceed \$1,200,000; and

WHEREAS, The Project includes work located in the City of Fremont and Alameda County, and SFPUC staff may seek to enter into Memoranda of Agreement ("MOAs") with these local jurisdictions, addressing such matters as (a) SFPUC's commitments to restore or replace, pursuant to agreed specifications, certain improvements owned by the respective local jurisdictions, (b) cooperative procedures and fees relating to local permits, inspections, and communications to the public concerning Project construction, (c) the form of necessary

encroachment permits or other property agreements for Project construction, and (d) the parties' respective indemnification and insurance obligations; and

WHEREAS, The Project may require the SFPUC General Manager to apply for and execute various necessary permits and encroachment permits with CalTrans, Alameda County or the City of Fremont, and those permits shall be consistent with SFPUC existing fee or easement interests, where applicable, and will include terms and conditions including, but not limited to, maintenance, repair and relocation of improvements and possibly indemnity obligations; and

WHEREAS, The SFPUC has issued leases, permits, or licenses to certain parties to use for various purposes portions of City-owned property along the SFPUC right of way where the Project work will occur, and in some instances, there is apparent use of City-owned property by other parties for which there is no evidence of SFPUC authorization, or other parties hold property rights or interests on lands along, over, adjacent to or in the vicinity of the right of way, and it may be necessary for the Project for the General Manager, or his designee, to (a) exercise rights under any such deed, lease, permit, or license or (b) negotiate and execute new or amended leases, permits, licenses, or encroachment removal or other project related agreements (each, a "Use Instrument") with owners or occupiers of property interests or utility facilities or improvements on, along, over, adjacent to or in the vicinity of, City property with respect to uses and structures, fences, and other above-ground or subterranean improvements or interests, orchards, trees, or other vegetation, or to implement Project mitigation measures or accommodate Project construction activities and schedule; and

WHEREAS, Implementation of the Project mitigation measures will involve consultation with, or required approvals by, state and federal regulatory agencies, including but not limited to the following: U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Transportation, State Historic Preservation Officer, California Department of Fish and Game, San Francisco Bay Regional Water Quality Control Board, and Bay Area Air Quality Management District; now, therefore, be it

RESOLVED, This Commission has reviewed and considered the Final EIR (FEIR), finds that the FEIR is adequate for its use as the decision-making body for the actions taken herein, and hereby adopts the CEQA Findings, including the Statement of Overriding Considerations, attached hereto as Exhibit A and incorporated herein as part of this Resolution by this reference thereto, and adopts the MMRP attached to this Resolution as Exhibit B and incorporated herein as part of this Resolution by this reference thereto, and authorizes a request to the Board of Supervisors to adopt the same CEQA Findings, Statement of Overriding Considerations and MMRP; and be it

FURTHER RESOLVED, That this Commission hereby approves Project No. CUW35901 New Irvington Tunnel Project and authorizes staff to proceed with actions necessary to implement the Project consistent with this Resolution, including advertising for construction bids, provided, however, that staff will return to seek Commission approval for award of the construction contract; and be it,

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager and/or the Director of Real Estate to undertake the process, in compliance with

Government Code Section 7260 et seq., with the San Francisco Charter and all applicable laws, for possible acquisition of interests (temporary or permanent) in the following real property in Alameda County: (1) Assessor's Parcel # 513-0065-011-02 in Fremont, owned by Malik A. and Barbara E. Alarab, (2) Assessor's Parcel # 513-0065-008-05 in Fremont, owned by David C. Lo, (3) Assessor's Parcel # 096-0080-004 in Sunol, owned by Stanley and Carolyn Garcia, (4) Assessor's Parcel # 525-1667-001 in Fremont owned by J.P. Mobasher and Daphne Huey, (5) Assessor's Parcel # 513-0461-001 in Fremont, owned by J.P. Mobasher, and (6) Assessor's Parcel # 096-0001-020-03 in Sunol, owned by Kenneth and Janice Mackin, and to seek Board of Supervisors' approval if necessary, and provided that any necessary Board approval has been obtained, to accept and execute final agreements, and any other related documents necessary to consummate the transactions contemplated therein, in such form, approved by the City Attorney; and be it

FURTHER RESOLVED, The General Manager will confer with the Commission during the negotiation process on real estate agreements as necessary, and report to the Commission on all agreements submitted to the Board of Supervisors for approval; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the General Manager to negotiate and execute Memoranda of Agreement to facilitate and coordinate the Project work, if necessary, with the City of Fremont and Alameda County (collectively the "Project MOAs") in a form that the General Manager determines is in the public interest and is acceptable, necessary, and advisable to effectuate the purposes and intent of this Resolution, and in compliance with the Charter and all applicable laws, and approved as to form by the City Attorney. The Project MOAs may address such matters as (a) SFPUC's commitments to restore or replace, pursuant to agreed specifications, certain improvements owned by the respective local jurisdictions, (b) cooperative procedures and fees relating to local permits, inspections, and communications to the public concerning Project construction, (c) the form of necessary encroachment permits or other property licenses required to permit Project construction, and (d) the parties' respective indemnification and insurance obligations, subject to the San Francisco Risk Manager's approval; and, be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to apply for and execute various necessary permits and encroachment permits with CalTrans, City of Fremont and Alameda County, which permits shall be consistent with SFPUC's existing fee or easement interests, where applicable. To the extent that the terms and conditions of the permits will require SFPUC to indemnify the respective jurisdictions, those indemnity obligations are subject to review and approval by the San Francisco Risk Manager. The General Manager is authorized to agree to such terms and conditions, including but not limited to those relating to maintenance, repair and relocation of improvements, that are in the public interest, and in the judgment of the General Manager, in consultation with the City Attorney, are reasonable and appropriate for the scope and duration of the requested use as necessary for the Project; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to exercise any right as necessary under any deed or Use Instrument and negotiate and execute new or amended Use Instruments, if necessary for the Project, with owners or occupiers

of property interests or utility facilities or improvements on, along, over, adjacent to, or in the vicinity of the SFPUC right of way, in a form that the General Manager determines is in the public interest and is acceptable, necessary, and advisable to accommodate Project construction activities and schedule, carry out Project related mitigation measures, and to otherwise effectuate the purposes and intent of this Resolution, in compliance with the Charter and all applicable laws, and in such form approved by the City Attorney; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to consult with, or apply for, and, if necessary, seek Board of Supervisors' approval, and if approved, to accept and execute permits or required approvals by state and federal regulatory agencies, including but not limited to: U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Transportation, State Historic Preservation Officer, California Department of Fish and Game, and San Francisco Bay Regional Water Quality Control Board, including terms and conditions that are within the lawful authority of the agency to impose, in the public interest, and, in the judgment of the General Manager, in consultation with the City Attorney, are reasonable and appropriate for the scope and duration of the requested permit or approval, as necessary for the Project; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to work with the Director of Real Estate to seek Board approval if necessary, and provided any necessary Board approval is obtained, to accept and execute the real property agreements authorized herein; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to enter into any subsequent additions, amendments or other modifications to the permits, licenses, encroachment removal agreements, leases, easements and other Use Instruments or real property agreements, or amendments thereto, as described herein, that the General Manager, in consultation with the Commercial Land Manager and the City Attorney, determines are in the best interests of the SFPUC and the City, do not materially decrease the benefits to the SFPUC or the City, and do not materially increase the obligations or liabilities of the SFPUC or the City, such determination to be conclusively evidenced by the execution and delivery of any such additions, amendments, or other modifications.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of November 10, 2009

Secretary, Public Utilities Commission

2009 - ON CALL ROTATION

5408	WEEKEND	1314
Tony Winnicker	08/21 - 08/23/09	Idil Bereket
Tyrone Jue	08/28 - 08/30/09	Sam Murray
Suzanne Gautier	09/04 - 09/06/09	Jim Chien
Christina Kerby	09/11 - 09/13/09	Benito Capuyan
Betsy Lauppe Rhodes	09/18 - 09/20/09	Amy Sinclair
Maureen Barry	09/25 - 09/27/09	Robert Lopez
Tony Winnicker	10/02 - 10/04/09	Ben Chan
Tyrone Jue	10/09 - 10/11/09	Michele Liapes
Suzanne Gautier	10/16 - 10/18/09	Idil Bereket
Betsy Lauppe Rhodes	10/23 - 10/24/09	Sam Murray
Maureen Barry	10/30 - 11/01/09	Jim Chien
Tony Winnicker	11/06 - 11/08/09	Benito Capuyan
Tyrone Jue	11/13 - 11/15/09	Amy Sinclair
Suzanne Gautier	11/20 - 11/22/09	Robert Lopez
Betsy Lauppe Rhodes	11/27 - 11/29/09	Ben Chan
Maureen Barry	12/04 - 12/06/09	Michele Liapes
Tony Winnicker	12/11 - 12/13/09	Idil Bereket
Tyrone Jue	12/18 - 12/20/09	Sam Murray
Suzanne Gautier	12/25 - 12/27/09	Jim Chien
5408 Contact Numbers		
Tony Winnicker: 415-279-6078	Suzanne Gautier: 415-513-2529	
Tyrone Jue: 415-290-0163	Betsy L. Rhodes: 415-513-2172	
Maureen Barry: 415-350-4929	Catania Galvan: 415-509-0923	
Christina Kerby: 415-412-5744		1/6/2009

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 09-0190

WHEREAS, San Francisco Public Utilities Commission (SFPUC) staff have developed a project description under the Water System Improvement Program (WSIP) for the improvements to the regional water supply system, otherwise known as Project No. CUW35901, New Irvington Tunnel Project; and

WHEREAS, The objectives of the Project are to:

Within 24 hours after a major earthquake on the Calaveras fault, allow for reliable transmission of a minimum of 120 mgd of water between SFPUC facilities in the Sunol Valley and the Bay Division Pipeline (BDPL) transmission system starting in the City of Fremont;

Within 24 hours after a major earthquake on the San Andreas or Hayward fault, allow for reliable transmission of a minimum of 229 mgd of water between SFPUC facilities in the Sunol Valley and the BDPL transmission system starting in the City of Fremont;

Within 30 days after a major earthquake on the Calaveras fault, allow for reliable transmission of a minimum of 160 mgd of water between the Sunol Valley and the BDPL transmission system;

Increase delivery reliability by providing operational flexibility to allow for planned shutdowns of the existing Irvington Tunnel for inspection, maintenance, and repair while providing for a maximum capacity of 320 mgd monthly average flow;

Increase delivery reliability by allowing for a planned outage of the existing Irvington Tunnel (e.g., shutdown for maintenance) concurrent with an unplanned outage (e.g., emergency outage due to facility failure) of any of the BDPLs or San Joaquin Pipelines while delivering a maximum flow of about 246 mgd between the Sunol Valley and BDPL transmission system during the outages; and

WHEREAS, On November 5, 2009, the Planning Commission reviewed and considered the Final Environmental Impact Report (FEIR) in Planning Department File No. 2005.0162E, consisting of the Draft EIR, the Comments and Responses document and Errata Sheet(s), and found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the FEIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said FEIR in compliance with CEQA and the CEQA Guidelines in its Motion No. M-17972; and

WHEREAS, This Commission has reviewed and considered the information contained in the FEIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC and other experts and the administrative files for the Project and the FEIR; and

WHEREAS, The Project and FEIR files have been made available for review by the SFPUC and the public in File No. 2005.0162E, at 1650 Mission Street, Fourth Floor, San Francisco, California; and those files are part of the record before this Commission; and

WHEREAS, SFPUC staff prepared proposed findings, as required by CEQA, (CEQA Findings) in Attachment A to this Resolution and a proposed Mitigation, Monitoring and Reporting Program (MMRP) in Attachment B to this Resolution, which material was made available to the public and the Commission for the Commission's review, consideration and action; and

WHEREAS, The Project is a capital improvement project approved by this Commission as part of the Water System Improvement Program (WSIP); and

WHEREAS, A Final Program EIR (PEIR) was prepared for the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No. 17734; and

WHEREAS, Thereafter, the SFPUC approved the WSIP and adopted findings and a MMRP as required by CEQA on October 30, 2008 by Resolution No. 08-200; and

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

WHEREAS, The PEIR has been made available for review by the SFPUC and the public, and is part of the record before this Commission; and

WHEREAS, The SFPUC staff will comply with Government Code Section 7260 et seq. statutory procedures for possible acquisition of interests (temporary or permanent) in the following real property in Alameda County: (1) Assessor's Parcel # 513-0065-011-02 in Fremont, owned by Malik A. and Barbara E. Alarab , (2) Assessor's Parcel # 513-0065-008-05 in Fremont, owned by David C. Lo, (3) Assessor's Parcel # 096-0080-004 in Sunol, owned by Stanley and Carolyn Garcia, (4) Assessor's Parcel # 525-1667-001 in Fremont, owned by J.P. Mobasher and Daphne Huey, (5) Assessor's Parcel # 513-0461-001 in Fremont, owned by J.P. Mobasher, and (6) Assessor's Parcel # 096-0001-020-03 in Sunol, owned by Kenneth and Janice Mackin. The total combined purchase price for the acquisition of these property interests is estimated to not exceed \$1,200,000; and

WHEREAS, The Project includes work located in the City of Fremont and Alameda County, and SFPUC staff may seek to enter into Memoranda of Agreement ("MOAs") with these local jurisdictions, addressing such matters as (a) SFPUC's commitments to restore or replace, pursuant to agreed specifications, certain improvements owned by the respective local jurisdictions, (b) cooperative procedures and fees relating to local permits, inspections, and communications to the public concerning Project construction, (c) the form of necessary

encroachment permits or other property agreements for Project construction, and (d) the parties' respective indemnification and insurance obligations; and

WHEREAS, The Project may require the SFPUC General Manager to apply for and execute various necessary permits and encroachment permits with CalTrans, Alameda County or the City of Fremont, and those permits shall be consistent with SFPUC existing fee or easement interests, where applicable, and will include terms and conditions including, but not limited to, maintenance, repair and relocation of improvements and possibly indemnity obligations; and

WHEREAS, The SFPUC has issued leases, permits, or licenses to certain parties to use for various purposes portions of City-owned property along the SFPUC right of way where the Project work will occur, and in some instances, there is apparent use of City-owned property by other parties for which there is no evidence of SFPUC authorization, or other parties hold property rights or interests on lands along, over, adjacent to or in the vicinity of the right of way, and it may be necessary for the Project for the General Manager, or his designee, to (a) exercise rights under any such deed, lease, permit, or license or (b) negotiate and execute new or amended leases, permits, licenses, or encroachment removal or other project related agreements (each, a "Use Instrument") with owners or occupiers of property interests or utility facilities or improvements on, along, over, adjacent to or in the vicinity of, City property with respect to uses and structures, fences, and other above-ground or subterranean improvements or interests, orchards, trees, or other vegetation, or to implement Project mitigation measures or accommodate Project construction activities and schedule; and

WHEREAS, Implementation of the Project mitigation measures will involve consultation with, or required approvals by, state and federal regulatory agencies, including but not limited to the following: U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Transportation, State Historic Preservation Officer, California Department of Fish and Game, San Francisco Bay Regional Water Quality Control Board, and Bay Area Air Quality Management District; now, therefore, be it

RESOLVED, This Commission has reviewed and considered the Final EIR (FEIR), finds that the FEIR is adequate for its use as the decision-making body for the actions taken herein, and hereby adopts the CEQA Findings, including the Statement of Overriding Considerations, attached hereto as Exhibit A and incorporated herein as part of this Resolution by this reference thereto, and adopts the MMRP attached to this Resolution as Exhibit B and incorporated herein as part of this Resolution by this reference thereto, and authorizes a request to the Board of Supervisors to adopt the same CEQA Findings, Statement of Overriding Considerations and MMRP; and be it

FURTHER RESOLVED, That this Commission hereby approves Project No. CUW35901 New Irvington Tunnel Project and authorizes staff to proceed with actions necessary to implement the Project consistent with this Resolution, including advertising for construction bids, provided, however, that staff will return to seek Commission approval for award of the construction contract; and be it,

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager and/or the Director of Real Estate to undertake the process, in compliance with

Government Code Section 7260 et seq., with the San Francisco Charter and all applicable laws, for possible acquisition of interests (temporary or permanent) in the following real property in Alameda County: (1) Assessor's Parcel # 513-0065-011-02 in Fremont, owned by Malik A. and Barbara E. Alarab, (2) Assessor's Parcel # 513-0065-008-05 in Fremont, owned by David C. Lo, (3) Assessor's Parcel # 096-0080-004 in Sunol, owned by Stanley and Carolyn Garcia, (4) Assessor's Parcel # 525-1667-001 in Fremont owned by J.P. Mobasher and Daphne Huey, (5) Assessor's Parcel # 513-0461-001 in Fremont, owned by J.P. Mobasher, and (6) Assessor's Parcel # 096-0001-020-03 in Sunol, owned by Kenneth and Janice Mackin, and to seek Board of Supervisors' approval if necessary, and provided that any necessary Board approval has been obtained, to accept and execute final agreements, and any other related documents necessary to consummate the transactions contemplated therein, in such form, approved by the City Attorney; and be it

FURTHER RESOLVED, The General Manager will confer with the Commission during the negotiation process on real estate agreements as necessary, and report to the Commission on all agreements submitted to the Board of Supervisors for approval; and notwithstanding the authority granted in this Resolution, the General Manager is not authorized to enter into an agreement to dispose of any real property interests under the jurisdiction of this Commission, in any manner, including by sale, exchange or transfer ("Transfer"), without this Commission approving such Transfer by Resolution setting forth findings required by Charter Section 8B121(e) and subject to Board of Supervisors' approval under Charter section 9.118; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the General Manager to negotiate and execute Memoranda of Agreement to facilitate and coordinate the Project work, if necessary, with the City of Fremont and Alameda County (collectively the "Project MOAs") in a form that the General Manager determines is in the public interest and is acceptable, necessary, and advisable to effectuate the purposes and intent of this Resolution, and in compliance with the Charter and all applicable laws, and approved as to form by the City Attorney. The Project MOAs may address such matters as (a) SFPUC's commitments to restore or replace, pursuant to agreed specifications, certain improvements owned by the respective local jurisdictions, (b) cooperative procedures and fees relating to local permits, inspections, and communications to the public concerning Project construction, (c) the form of necessary encroachment permits or other property licenses required to permit Project construction, and (d) the parties' respective indemnification and insurance obligations, subject to the San Francisco Risk Manager's approval; and, be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to apply for and execute various necessary permits and encroachment permits with CalTrans, City of Fremont and Alameda County, which permits shall be consistent with SFPUC's existing fee or easement interests, where applicable. To the extent that the terms and conditions of the permits will require SFPUC to indemnify the respective jurisdictions, those indemnity obligations are subject to review and approval by the San Francisco Risk Manager. The General Manager is authorized to agree to such terms and conditions, including but not limited to those relating to maintenance, repair and relocation of improvements, that are in the public interest, and in the judgment of the General Manager, in consultation with the City Attorney, are reasonable and appropriate for the scope and duration of the requested use as

necessary for the Project; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to exercise any right as necessary under any deed or Use Instrument and negotiate and execute new or amended Use Instruments, if necessary for the Project, with owners or occupiers of property interests or utility facilities or improvements on, along, over, adjacent to, or in the vicinity of the SFPUC right of way, in a form that the General Manager determines is in the public interest and is acceptable, necessary, and advisable to accommodate Project construction activities and schedule, carry out Project related mitigation measures, and to otherwise effectuate the purposes and intent of this Resolution, in compliance with the Charter and all applicable laws, and in such form approved by the City Attorney; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to consult with, or apply for, and, if necessary, seek Board of Supervisors' approval, and if approved, to accept and execute permits or required approvals by state and federal regulatory agencies, including but not limited to: U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, California Department of Transportation, State Historic Preservation Officer, California Department of Fish and Game, and San Francisco Bay Regional Water Quality Control Board, including terms and conditions that are within the lawful authority of the agency to impose, in the public interest, and, in the judgment of the General Manager, in consultation with the City Attorney, are reasonable and appropriate for the scope and duration of the requested permit or approval, as necessary for the Project; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to work with the Director of Real Estate to seek Board approval if necessary, and provided any necessary Board approval is obtained, to accept and execute the real property agreements authorized herein; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to enter into any subsequent additions, amendments or other modifications to the permits, licenses, encroachment removal agreements, leases, easements and other Use Instruments or real property agreements, or amendments thereto, as described herein, that the General Manager, in consultation with the Commercial Land Manager and the City Attorney, determines are in the best interests of the SFPUC and the City, do not materially decrease the benefits to the SFPUC or the City, and do not materially increase the obligations or liabilities of the SFPUC or the City, such determination to be conclusively evidenced by the execution and delivery of any such additions, amendments, or other modifications.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of _____ November 10, 2009



Secretary, Public Utilities Commission

MITIGATION MONITORING AND REPORTING PROGRAM					
Impact No.	Impact Summary	Mitigation Measure		Monitoring and Reporting Actions	Implementation Schedule
		Responsible Party	Reviewing & Approval Party		
LIJ-2	Temporary disruption or displacement of existing land uses during construction	Implement Mitigation Measures TRF-2a, NOI-1, NOI-2, AIR-1, AIR-2, and HYD-2 below.	-	-	-
LAND USE					
AES-3	Temporarily degrade the visual character or quality in and adjacent to the project work areas.	<p>Mitigation Measure AES-3: Install Visual Screens During Construction The SFPUC shall implement the following measures during construction to reduce temporary aesthetic impacts:</p> <ul style="list-style-type: none"> - A visual screening fence and/or soundwall shall be placed so that it blocks direct views from both first- and second-story levels of the residences along Mission Ridge Court and Lima Terrace and from residences on Mission Circle, Morada, Danzon, and Galleria Court that have views of the work area (not including the Bay Division Pipeline [BDPL] Nos. 1 and 2 and BDPL Nos. 3 and 4 alignments). - A visual screening fence and/or soundwall shall be placed so that it blocks views of construction activity from first-story levels of all residences adjacent to the BDPL Nos. 1 and 2 and BDPL Nos. 3 and 4 alignments. - To the extent feasible, construction equipment shall be staged so that it is not visible to adjacent residences, taking into account the effect of the visual screening fence/soundwall. - Nighttime lighting shall be directed downward and shall be confined to the discrete areas where construction takes place and shall not exceed the height of the visual screening fence/soundwall. 			
AESTHETICS					
CR-1	Impacts on the historical significance of individual facilities or districts resulting from alteration and nearby construction activities.	<p>Mitigation Measures CR-1a: Prepare and Implement a Historical Resources Protection Plan To protect historical resources within the CECOA Area of Potential Effects (APE) at the Alameda West Portal work area, Irvington Portal work area, and BDPL Nos. 1 and 2 connection, from indirect impacts during construction activities (i.e., due to damage from operation of construction equipment, vibration, staging, and material storage), the SFPUC shall, prior to any construction activities, including any ground-disturbing work, prepare a plan establishing procedures to protect historical resources, including:</p> <ul style="list-style-type: none"> • the Alameda West Portal valve houses and manifold, • the Irvington Tunnel, • the Irvington Portal valve houses and manifold, and • BDPL Nos. 1 and 2. <p>The SFPUC shall ensure the contractor follows this plan while working near these resources. The plan shall be prepared by a qualified architectural historian who meets the Secretary of Interior's Professional Qualifications Standards. At a minimum, the plan shall include:</p>			
CULTURAL					
		<p>1. CM Team (Architectural Historian)</p> <ol style="list-style-type: none"> 1. CM Team 2. SFPUC EMB <p>2. SFPUC EMB</p> <ol style="list-style-type: none"> 1. SFPUC BEM 2. CM Team <p>3. CM Team</p> <ol style="list-style-type: none"> 1. SFPUC BEM 2. SFPUC BEM 3. SFPUC BEM 			
		<p>1. SFPUC BEM</p> <ol style="list-style-type: none"> 1. Prepare a Historic Resources Protection Plan. Include documentation of qualifications of historian (e.g., resume). 2. Ensure that applicable measures identified in the Historic Resources Protection Plan are included in contract documents. <p>2. Construction</p> <ol style="list-style-type: none"> 1. Preconstruction training prior to beginning work, and sign the training sign-in sheet. Maintain file of sign-in sheets. 2. Design 3. Construction 			

