

1 [Amendment Agreement - Exchange Easements in Connection with the Bay Division Pipeline
2 Reliability Upgrade Project-Bay Tunnel]

3 **Resolution approving and authorizing a Second Amendment to an agreement to**
4 **exchange interests in real property to grant the Midpeninsula Regional Open Space**
5 **District a permanent, non-exclusive public trail easement in exchange for a quitclaim to**
6 **the City and County of San Francisco of an open space easement over real property**
7 **owned by the City and County of San Francisco, as part of the San Francisco Public**
8 **Utilities Commission Water System Improvement Program-Funded Project CUW36801,**
9 **Bay Division Pipeline Reliability Upgrade-Bay Tunnel; and authorizing the General**
10 **Manager of the San Francisco Public Utilities Commission, or Director of Property to**
11 **execute documents, make certain modifications and take certain actions in furtherance**
12 **of this Resolution, as defined herein.**

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14 WHEREAS, The San Francisco Public Utilities Commission (“SFPUC”) approved
15 Project CUW36801, Bay Division Pipeline Reliability Upgrade Project-Bay Tunnel (“Bay
16 Tunnel” or the “Project”) under the Water System Improvement Program (“WSIP”) for
17 improvements to the regional water supply system through SFPUC Resolution No. 09-0176
18 on October 27, 2009, incorporated herein by this reference, and acquired in connection
19 therewith interests in certain real property described herein; and

20 WHEREAS, By Resolution No. 491-10 adopted effective as of October 22, 2010, the
21 Board of Supervisors and Mayor approved an Agreement to Exchange Interests in Real
22 Property (“Exchange Agreement”) to acquire an exclusive, subsurface easement from the
23 Midpeninsula Regional Open Space District (“District”) in exchange for a 50-foot wide open
24 space easement on SFPUC Lands (“Open Space Easement”) located in the town of East Palo
25 Alto known as the Ravenswood Property on Assessor’s Parcel Numbers 093-590-030, 093-

1 590-050 and 093-590-060, adopted environmental findings under the California
2 Environmental Quality Act (“CEQA”), CEQA Guidelines, and Administrative Code, Chapter 31
3 and adopted findings of consistency with City Planning Code, Section 101.1 through Board of
4 Supervisors Resolution No. 491-10 which is incorporated herein by this reference; and

5 WHEREAS, The SFPUC and the District entered into the Exchange Agreement on
6 November 17, 2010, which contemplated that the District would study the feasibility of a future
7 public trail located on SFPUC property (“Trail Easement”); and

8 WHEREAS, On January 31, 2011, the SFPUC and the District closed escrow for
9 SFPUC’s acquisition of the subsurface easement in exchange for conveying the Open
10 Space Easement to the District; and

11 WHEREAS, A copy of the Exchange Agreement between the District and the City is
12 on file with the Clerk of the Board of Supervisors under File No. 101150, which is
13 incorporated herein by this reference and is considered part of the record before this Board;
14 and

15 WHEREAS, The District has conducted feasibility studies and has worked with
16 SFPUC staff to identify a mutually acceptable alignment for the proposed Trail Easement
17 and negotiated a Second Amendment to Agreement to Exchange Interests in Real Property
18 (“Second Amendment”) and a Public Trail Easement; and

19 WHEREAS, By Resolution No. 17-0087 adopted as effective as of April 25, 2017, a
20 copy of which is on file with the Clerk of the Board of Supervisors of the City (“Board”)
21 under File No. 171007, which is incorporated herein by this reference, approved the
22 proposed Second Amendment whereby SFPUC shall grant a new 20-foot wide easement
23 to the District for a public trail on property under the SFPUC’s jurisdiction, and in exchange
24 the District shall quitclaim back to the SFPUC all rights, title and interest in an open space
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1 easement that SFPUC originally granted to District pursuant to the Exchange Agreement;
2 and

3 WHEREAS, The Project files, including the FEIR, PEIR and SFPUC Resolution No.
4 09-0120 have been made available for review by the Board and the public, and those files
5 are considered part of the record before this Board; and

6 WHEREAS, In Planning Case 2017-010544GPR dated August 29, 2017, the
7 Department of City Planning found the exchange of property interests for the Project to be
8 in conformity with the General Plan and consistent with the Eight Priority Policies of City
9 Planning Code, Section 101.1 to the extent applicable; and

10 WHEREAS, A copy of the proposed Second Amendment between the District and the
11 City is on file with the Clerk of the Board of Supervisors under File No. 171007, which is
12 incorporated herein by this reference and is considered part of the record before this Board;
13 now, therefore, be it

14 RESOLVED, That in accordance with the recommendations of the Public Utilities
15 Commission and the Director of Property, the Board of Supervisors hereby approves the
16 Second Amendment and the transaction contemplated thereby in substantially the form of
17 such Second Amendment presented to the Board; and, be it

18 FURTHER RESOLVED, That the Board authorizes the Director of Property and/or
19 the General Manager of the SFPUC to enter into any additions, amendments or other
20 modifications to the Second Amendment (including, without limitation, the attached
21 exhibits) that the Director of Property and/or the General Manager determines are in the
22 best interest of the City, that do not materially increase the obligations or liabilities of the
23 City, and are necessary or advisable to complete the transaction contemplated in the
24 Second Amendment and effectuate the purpose and intent of this Resolution, such
25 determination to be conclusively evidenced by the execution and delivery by the Director of

1 Property or the General Manager of the Second Amendment and any additions or
2 amendments thereto; and, be it

3 FURTHER RESOLVED, That the Director of Property is hereby authorized and
4 urged, in the name and on behalf of the City and County, to execute the Second
5 Amendment for the exchange of easements with the District in accordance with the terms
6 and conditions of the Second Amendment, and to take any and all steps (including, but not
7 limited to, the execution and delivery of any and all certificates, agreements, notices,
8 consents, escrow instructions, closing documents and other instruments or documents) as
9 the Director of Property deems necessary or appropriate pursuant to the Second
10 Amendment, or to otherwise effectuate the purpose and intent of this Resolution, such
11 determination to be conclusively evidenced by the execution and delivery by the Director of
12 Property; and, be it

13 FURTHER RESOLVED, That upon execution of the Second Amendment, the San
14 Francisco Public Utilities Commission shall transmit to the Clerk of the Board of
15 Supervisors a copy of the Second Amendment, for inclusion in File No. 171007.

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1 RECOMMENDED:

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4 Director of Property
5 Real Estate Division

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8 RECOMMENDED:

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11 General Manager
12 San Francisco Public Utilities Commission

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