

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 22-0134

WHEREAS, The City and County of San Francisco (“City”) owns certain unimproved agricultural real property under the jurisdiction of the San Francisco Public Utilities Commission (“SFPUC”) located along State Route 84 (SR-84) in an unincorporated area of Alameda County, California, designated as SFPUC Parcel No. 57 and also designated as portions of Assessor Parcel Nos. 507-761-2-4 and 507-761-2-5; and

WHEREAS, The California Department of Transportation (“Caltrans”) proposes to replace the Alameda Creek Bridge to correct structural deficiencies and realign the eastern and western approaches to the bridge on SR-84 (“Project”); and

WHEREAS, Caltrans desires to acquire from the City approximately 21,651 square feet of unimproved agricultural land and approximately 33,758 square feet of temporary construction easement area along the Project area in SFPUC Parcel No. 57; and

WHEREAS, The fee interests, and easement areas, that the City proposes to sell to Caltrans are collectively referred to as the “Property”; and

WHEREAS, Caltrans has authority to exercise the power of eminent domain and compel City to sell the Property; and

WHEREAS, Caltrans and City recognize the expense, time, effort, and risk to both parties in determining the compensation for acquiring the Property by eminent domain litigation, and to avoid such litigation, Caltrans and City desire to enter into an Agreement for Sale of Real Estate and Temporary Construction Easements (“Agreement”) to sell the Property; and

WHEREAS, The SFPUC has no utility use for the unimproved Property, which was deemed underutilized in an SFPUC statement of underutilization for the Property dated May 18, 2021 signed by the Assistant General Managers of the Water, Wastewater, and Power Enterprises; and

WHEREAS, The Property is “surplus land”, as defined in California Government Code Section 54221(b) because it is owned in fee simple by City and not necessary for City’s use; and

WHEREAS, The Property is “exempt surplus land”, as defined in California Government Code Section 54221(f)(1)(D) because it is surplus land that the City is transferring to the State of California, and for the agency’s use; and

WHEREAS, Pursuant to Section 23.3 of the Administrative Code, the City may convey the Property to the Caltrans without a competitive bidding process if the Board of Supervisors determines that a competitive process “is impractical, impossible, or is otherwise not in the public interest”; and

WHEREAS, In this case, a competitive bidding process is impractical and is otherwise not in the public interest because the sale of the Property to Caltrans will avoid the expense, time, effort, and risk of eminent domain litigation and will support the construction of public highway improvements, and because the Property's location and dimension makes use by any other entity impractical; and

WHEREAS, The City, through the SFPUC, intends to sell the Property to Caltrans on an "as-is with all faults" basis pursuant to the terms of the Agreement; and

WHEREAS, Caltrans's offer of fair and just compensation in the sum of Twenty-Four Thousand Five Hundred Twenty-Eight Dollars (\$24,528) for its purchase of the fee and temporary construction easement interests in portions of the Property was made in accordance with California Government Code 7267.2; and

WHEREAS, On August 16, 2017, Caltrans, acting as the California Environmental Quality Act (CEQA) lead agency, certified a Final Environmental Impact Report (FEIR) / Environmental Assessment with Finding of No Significant Impact (FONSI) for the Alameda Creek Bridge Replacement Project (Project); and

WHEREAS, On June 27, 2022 Caltrans issued a National Environmental Policy Act (NEPA)/CEQA Re-Validation Form to correct an administrative discrepancy; and

WHEREAS, Caltrans has adopted the mitigation measures included in the FEIR/FONSI to avoid or substantially lessen the significant environmental effects identified in the FEIR/FONSI and set forth in the Mitigation Monitoring and Reporting Plan (MMRP), and has assumed responsibility for their implementation; and

WHEREAS, the FEIR/FONSI, NEPA/CEQA Re-Validation Form, CEQA Findings, Mitigation Monitoring and Reporting Program, and SFPUC Responsible Agency Findings that are part of the record of this approval are available for public review at the SFPUC offices, Real Estate Services Division, 525 Golden Gate Avenue, 10th Floor, San Francisco, California; and

WHEREAS, Since Caltrans adopted the FEIR/FONSI, there have been no substantial changes in the Project or changes in Project circumstances that would result in new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FEIR/FONSI; and

WHEREAS, This Commission, acting as a responsible agency under the CEQA Guidelines Sections 15096 and 15381, has reviewed the FEIR/FONSI and has determined that the approval and execution of the Agreement is within the scope of the Project's CEQA approval, and that the FEIR/FONSI and other materials are adequate for use in approval and execution of the Agreement; and

WHEREAS, The SFPUC has no direct authority or responsibility with respect to the proposed Project other than to enable Caltrans, through approval and execution of the Agreement, to carry out the proposed Project; now, therefore, be it

RESOLVED, This Commission has reviewed and considered the FEIR/FONSI and record and finds that the FEIR/FONSI is adequate for use as the decision-making body for the action taken by this Resolution; and be it

FURTHER RESOLVED, This Commission finds that since the FEIR/FONSI was finalized, there have been no substantive Project changes and no substantial changes in Project circumstances that would require revisions to the FEIR/FONSI due to the potential involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the FEIR/FONSI; and be it

FURTHER RESOLVED, The SFPUC adopts the findings contained in the recitals set forth above as if set forth fully herein, and also adopts the findings required by Section 15091 of the CEQA Guidelines that the Caltrans has previously adopted in conjunction with Caltrans approval of the project; and be it

FURTHER RESOLVED, That this Commission hereby declares the Property surplus to the SFPUC's utility needs in accordance with Section 8B.121(e) of the City Charter; and, be it

FURTHER RESOLVED, That this Commission finds, in consideration of the foregoing, that the Property is "surplus land", as defined in California Government Code Section 55421(b) because it is owned in fee simple by City and not necessary for City's use; and be it

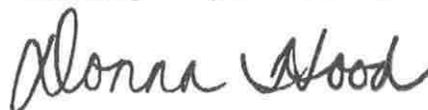
FURTHER RESOLVED, That this Commission finds, in consideration of the foregoing, that the Property is "exempt surplus land" as defined in Government Code Section 54221(f)(1)(D) because it is surplus land that the City is transferring to another local agency and state agency for the agencies' use; and be it

FURTHER RESOLVED, That this Commission recommends that the Board of Supervisors to determine, in accordance with Section 23.3 of the Administrative Code, that a competitive bidding process for the conveyance of the Property is impractical and is otherwise not in the public interest because the sale of the Property to Caltrans will avoid the expense, time, effort, and risk of eminent domain litigation and will support the construction of public highway improvements and because the Property's location and dimension makes use by any other entity impractical; and be it

FURTHER RESOLVED, That this Commission hereby approves the terms and conditions of the Agreement subject to approval by the Board of Supervisors and Mayor, and upon such approval hereby authorizes the SFPUC General Manager to execute the Agreement; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager and/or City's Director of Property to enter into any amendments or modifications to the Agreement, including, without limitation, the exhibits, that the General Manager and/or City's Director of Property determines, in consultation with the City Attorney, are in the best interest of the City; do not materially increase the obligations or liabilities of the City; are necessary or advisable to effectuate the purposes and intent of the Agreement or this resolution; and are in compliance with all applicable laws, including the City Charter.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of July 12, 2022.



Secretary, Public Utilities Commission