

1 [Sale of Real Estate - Reservoir Community Partners, LLC - Balboa Reservoir - \$11,400,000]
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3 **Resolution approving and authorizing the execution of an Agreement for Sale of Real**
4 **Estate for the conveyance by the City, acting through the San Francisco Public Utilities**
5 **Commission, to Reservoir Community Partners, LLC of approximately 16.4 acres of**
6 **real property in Assessor's Parcel Block No. 3180, Lot No. 190, located near Ocean**
7 **Avenue and Frida Kahlo Way, for \$11,400,000; adopting findings under the California**
8 **Environmental Quality Act; adopting findings that the conveyance is consistent with**
9 **the General Plan, and the priority policies of Planning Code, Section 101.1; authorizing**
10 **the Director of Property and/or the SFPUC's General Manager to execute the**
11 **Agreement for Sale of Real Estate and related documents for the sale of the property,**
12 **including an Open Space License, Promissory Note, Deed of Trust, Amended and**
13 **Restated Easement Agreement and Deed, Declaration of Restrictions, and Recognition**
14 **Agreement; and authorizing the Director of Property and/or the SFPUC's General**
15 **Manager to make certain modifications, as described herein, and take certain actions in**
16 **furtherance of this Resolution, as described herein.**
17

18 WHEREAS, The City and County of San Francisco (the "City"), under the jurisdiction of
19 the San Francisco Public Utilities Commission (the "SFPUC"), owns approximately 17.6 acres
20 of certain real property located near Frida Kahlo Way and Ocean Avenue, commonly known
21 as Balboa Reservoir in San Francisco, California, also known as Assessor's Parcel Block
22 3180, Lot 190 (the "Balboa Reservoir"); and

23 WHEREAS, In 1957, the SFPUC originally constructed the Balboa Reservoir for water
24 storage but never used the site for its intended water storage purpose; and
25

1 WHEREAS, In April of 2015, by Ordinance No. 45-15, the Board of Supervisors
2 established the Balboa Reservoir Community Advisory Committee ("BRCAC") to advise the
3 Board of Supervisors, the Mayor, and City departments, and to provide a regular venue for
4 interested community stakeholders and the general public to discuss any proposed
5 development at the Balboa Reservoir; and

6 WHEREAS, As set forth in Ordinance No. 45-15, the City chose the Balboa
7 Reservoir as a potential site under the Public Land for Housing Program, an interdepartmental
8 program to coordinate development of certain City lands with the goal of providing affordable
9 housing and other public benefits, and the City recognized this site as an opportunity for it to
10 realize a substantial amount of new affordable housing while still allowing the SFPUC to
11 receive fair market value for the land; and

12 WHEREAS, Ordinance No. 45-15 further noted that the City must receive input from
13 the individuals and communities that will be most directly impacted by the project, including
14 residents, businesses, and educational institutions in the area immediately surrounding the
15 Balboa Reservoir; and

16 WHEREAS, The BRCAC has held monthly public meetings and played a key role in
17 development of the Request for Qualifications and Request for Proposals that the City has
18 issued for the Balboa Reservoir; and

19 WHEREAS; City College has taken part in planning the project at the Balboa Reservoir
20 throughout the development process, including having a designated seat on the BRCAC,
21 participating on the evaluation and selection panels for the Request for Qualifications and the
22 Request for Proposals relating to the project, presentations by the City to the City College
23 Board of Trustees, and consultations with City College administration; and

24 WHEREAS; The SFPUC has been engaged in planning the proposed Balboa
25 Reservoir project for the last five years through the City's Public Land for Housing Program,

1 which coordinates development of certain of the City's public land assets with the goal of
2 providing affordable housing and other benefits for the public; and

3 WHEREAS, In August of 2017, after extensive community outreach, issuance of a
4 Request for Qualifications and then a Request for Proposals to solicit developers interested in
5 acquiring and developing the Balboa Reservoir, a selection panel including representatives
6 from the City, City College, and the BRCAC selected the development team consisting of a
7 joint venture comprised of the master co-developers, AvalonBay Communities and Bridge
8 Housing (collectively, the "Developer"), with Mission Housing, Pacific Union Development
9 Company, and Habitat for Humanity of Greater San Francisco participating on the
10 development team; and

11 WHEREAS, On November 14, 2017 by Resolution No. 17-0225, the SFPUC
12 Commission approved an Exclusive Negotiating Agreement ("ENA") between City, through
13 the SFPUC, and the Developer, authorizing the parties to negotiate the terms and conditions
14 for the development and sale of the Balboa Reservoir; and

15 WHEREAS, Pursuant to the ENA, the parties have negotiated several transaction
16 documents for the sale and development of approximately 16.4 acres of the Balboa Reservoir
17 site ("Property"), including a Development Agreement ("Development Agreement") (File No.
18 200635) pursuant to which the City will realize significantly more community benefits than it
19 would through application of existing City ordinances, regulations, and policies, in exchange
20 for granting the Developer a vested right to build the project subject to specified regulations,
21 rules and policies governing the design, construction, fees and exactions, use and other
22 aspects of the project; and

23 WHEREAS, The Development Agreement provides for approximately 1,100 units of
24 housing, including approximately fifty percent (50%), or 550 homes, as housing units
25 affordable to persons and families of low and moderate income. Approximately 150 of these

1 affordable housing units will be earmarked for educators, and City College faculty and staff
2 will have first priority to those units. The development project includes approximately 1,000
3 units of mixed-income affordable and market-rate multi-family rental residential housing and
4 100 for-sale residential units, ground-floor community space, approximately 4 acres of
5 privately owned and publicly accessible open space, parking garages, and a 100 seat child-
6 care facility with 50% of the seats made affordable to low income families (the "Project"); and

7 WHEREAS, The Project includes extensive investments in public infrastructure,
8 including new water distribution, emergency firefighting water system and auxiliary water
9 supply facilities, stormwater management improvements, sanitary sewer systems, power
10 facilities, and street lighting that are expected to cost approximately \$39,000,000 and that will
11 be dedicated to the City, at no cost to the City, upon completion; and

12 WHEREAS, While we are living in a global pandemic combined with a housing
13 shortage crisis, the Project will provide critical and essential affordable housing, generate
14 approximately 460 construction jobs during construction and an approximately \$1.7 Million
15 annual increase in general fund revenues to the City, infrastructure improvements, and a
16 number of other important community benefits that will strengthen the City during economic
17 uncertainty; and

18 WHEREAS, The Project includes affordable housing that exceeds the requirements of
19 the Planning Code for inclusionary affordable housing and is keeping with the goals of the
20 Public Land for Housing Initiative established by Mayor Ed Lee, and with voter approved
21 Proposition K in 2015; and

22 WHEREAS, The parties have negotiated an Agreement for Sale of Real Estate (the
23 "Purchase and Sale Agreement"), a copy of which is on file with the Clerk of the Board of
24 Supervisors under File No. 200740, in conjunction with the Development Agreement for the
25 SFPUC to sell the Property to the Developer for \$11,400,000. In June of 2020 a MAI

1 appraiser appraised the fair market value of the Property at \$11,400,000; and

2 WHEREAS, Under the Purchase and Sale Agreement, the closing date will occur no
3 later than December 31, 2022, and the Developer will pay to the SFPUC: (i) a non-refundable
4 Initial Payment of \$500,000 upon City's execution of the Purchase and Sale Agreement; (ii)
5 annual pre-closing deposits of \$400,000; and (iii) annual interest at the rate of three percent
6 through the closing; and

7 WHEREAS, Under the Purchase and Sale Agreement, the Developer may elect to
8 have the City provide carryback financing on the balance of the purchase price at the closing,
9 in which case the Developer will issue a promissory note ("Promissory Note") to the City
10 secured by a first-lien deed of trust ("Deed of Trust") on the Property. Once the Developer has
11 paid the principal balance of the loan down to \$5,700,000, the City will release the lien of its
12 Deed of Trust from the Phase 1 portion of the Property and will retain the lien of the Deed of
13 Trust on the Phase 2 portion of the Property. The Promissory Note will be paid in full by
14 December 31, 2028; and

15 WHEREAS, The City, under the SFPUC's jurisdiction, will retain an 80-foot-wide
16 approximately one-acre parcel of land ("Retained Fee"), with surface appurtenances and a
17 subsurface SFPUC water transmission line, north of Ocean Avenue along the southern
18 boundary of the Balboa Reservoir. The SFPUC and the Developer have negotiated a 20-year
19 open space license ("Open Space License") for the use of approximately 44,431 square feet
20 of the Retained Fee. The Open Space License requires the Developer to use the license area
21 for the installation and maintenance of public open space for the benefit of Project residents
22 and the general public. The use fee for the Open Space License starting in year 11 of the
23 license term will be \$32,380 per year, with 4% annual increases, or the Developer may elect
24 to make an upfront lump sum payment of \$112,000; and

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1 WHEREAS, The Project will provide an important community benefit to residents in
2 San Francisco and promote a public purpose by creating significant housing and affordable
3 housing, open space, and other public benefits as described in the Development Agreement;
4 and

5 WHEREAS, The parties also have negotiated a Recognition Agreement, which
6 provides for the SFPUC's recognition of performance, cure, and reassignment rights between
7 the master co-developers of the Project; and

8 WHEREAS, To facilitate planned street circulation for the Project, the SFPUC will
9 record a Declaration of Restrictions ("Declaration") that will allow a portion of the Retained
10 Fee area to be used as dedicated public right-of-way for purposes of constructing and
11 subsequent use of the planned extension of Lee Avenue where it crosses the Retained Fee;
12 and

13 WHEREAS, The Balboa Reservoir is subject to a 2012 Access Easement Agreement
14 between City, through the SFPUC, and City College ("Original Easement"), which
15 contemplated that City College would construct and maintain an accessway on the Property,
16 and City College has not yet constructed the accessway as required by the Original
17 Easement. To facilitate planned street circulation for the Project, the parties negotiated an
18 amendment to the Original Easement ("Amended Easement"). Under the Amended
19 Easement, the City will obtain additional land to widen the Accessway, and in return for
20 conveyance in fee of the revised easement area from City College to City, City will relieve City
21 College of its obligation to construct the Accessway to current City standards as required by
22 the Original Easement and will relieve City College from liability for certain encroaching
23 unpermitted utility facilities on City property; and

24 WHEREAS, On January 1, 2020, new amendments to the State Surplus Lands Act
25 under Assembly Bill 1486 took effect which imposed additional requirements on some projects

1 but excludes from those requirements properties that have an existing exclusive negotiating
2 agreement and will be conveyed by December 31, 2022. Because the City entered the ENA
3 relating to the Property in December of 2017, and the disposition of the Property will be
4 completed by December 31, 2022, the additional requirements do not apply to the Project;
5 and

6 WHEREAS, The SFPUC Commission determined that the Property is surplus to its
7 needs by Resolution 20-0135, dated June 23, 2020, a copy of which is on file with the Clerk of
8 the Board of Supervisors in File No. 200740; and

9 WHEREAS, San Francisco Charter Section 8B.121(a) grants the SFPUC Commission
10 the exclusive charge of the real property assets under the SFPUC Commission's jurisdiction;
11 Charter Section 8B.121(e) provides that the SFPUC Commission may transfer real property
12 interests the SFPUC Commission declares to be surplus to the needs of any utility, and
13 Charter Section 9.118(c) provides that any sale of real property owned by the City must be
14 approved in advance by the Board of Supervisors; and

15 WHEREAS, The San Francisco Planning Commission unanimously approved the
16 Development Agreement by Resolution R-20735 on May 28, 2020, and the San Francisco
17 Municipal Transportation Agency unanimously consented to the Development Agreement by
18 Resolution No. 200616-055 on June 16, 2020. The SFPUC Commission unanimously
19 consented to the Development Agreement and approved the Purchase and Sale Agreement
20 by Resolution 20-0135, dated June 23, 2020; and

21 WHEREAS, The effectiveness of the Purchase and Sale Agreement is contingent upon
22 approval of the Development Agreement by the Board of Supervisors, and the Board of
23 Supervisors is considering approval of the Development Agreement pursuant to an ordinance,
24 a copy of which is on file with the Clerk of the Board of Supervisors under File No. 200423;
25 and

1 WHEREAS, On May 28, 2020, in Motion No. 20730, the Planning Commission certified
2 the Balboa Reservoir Final Subsequent Environmental Impact Report ("FSEIR") in
3 accordance with the California Environmental Quality Act ("CEQA") Public Resources Code
4 sections 21000 et seq.), the CEQA Guidelines (14 Cal. Code Reg. sections 15000 et seq.),
5 and Chapter 31 of the San Francisco Administrative Code. On that same day, in Motion No.
6 20731, the Planning Commission adopted CEQA Findings, a Statement of Overriding
7 Considerations, and a Mitigation Monitoring and Reporting Program; and

8 WHEREAS, The Planning Commission Secretary is the custodian of records for the
9 Planning Commission FSEIR materials and related records are available at the Planning
10 Department, 1650 Mission Street, Suite 400, San Francisco, CA 94103 and at
11 <http://ab900balboa.com>. These records have been made available to the public for review
12 and are incorporated herein by reference; and

13 WHEREAS, This Board of Supervisors has reviewed and considered the information
14 contained in the FSEIR, the findings contained in Planning Commission Motion Numbers
15 20730 and 20731, and all written and oral information provided by the Planning Department,
16 the public, relevant public agencies, SFPUC and other experts and the administrative files for
17 the Project; now, therefore, be it

18 RESOLVED, That this Board of Supervisors has reviewed and considered the FSEIR
19 and record as a whole, finds that the FSEIR is adequate for its use as the decision-making
20 body for the Purchase and Sale Agreement, the Promissory Note, the Deed of Trust, the
21 Declaration, the Recognition Agreement, the Open Space License, and the Amended
22 Easement, and incorporates the CEQA findings contained in Motion No. 20731, including the
23 Statement of Overriding Considerations and the Mitigation and Monitoring Program as though
24 set forth in this Resolution; and be it further

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1 RESOLVED, That this Board of Supervisors further finds that since the FSEIR was
2 finalized, there have been no substantial project changes and no substantial changes in
3 project circumstances that would require major revisions to the FSEIR due to the involvement
4 of new significant environmental effects or an increase in the severity of previously identified
5 significant impacts, and there is no new information of substantial importance that would
6 change the conclusions set forth in the FSEIR, and be it

7 FURTHER RESOLVED, That the Board of Supervisors hereby adopts Motion No.
8 20731, the Planning Commission adopted CEQA Findings, a Statement of Overriding
9 Considerations, and a Mitigation Monitoring and Reporting Program, dated May 29, 2020;
10 and, be it

11 FURTHER RESOLVED, This Board of Supervisors finds that, consistent with and in
12 furtherance of the goals of the Public Lands for Housing Program and Proposition K approved
13 by the voters in 2015, and in light of the continuing and unrelenting housing crisis in San
14 Francisco, the sale and development of the Property as set forth in the Purchase and Sale
15 Agreement and the Development Agreement is necessary and appropriate to further the City's
16 public purpose of promoting and providing affordable housing in San Francisco, and the public
17 interest and necessity demands and will not be inconvenienced by the sale and development
18 of the Property for these purposes; and, be it

19 FURTHER RESOLVED, That the City's Board of Supervisors, in accordance with the
20 recommendations of the SFPUC and the Director of Property, hereby approves the Purchase
21 and Sale Agreement, including the Promissory Note, the Deed of Trust, the Declaration, the
22 Recognition Agreement, the Open Space License, and the Amended Easement, which are
23 exhibits attached to the Purchase and Sale Agreement, and authorizes the SFPUC General
24 Manager to execute the Purchase and Sale Agreement and its exhibits and the Director of
25 Property to execute the Amended Easement, in substantially the form presented to the Board,

1 and to take any and all steps (including, but not limited to, the execution and delivery of any
2 and all certificates, agreements, notices, consents, escrow instructions, closing documents,
3 and other instruments or documents) as the Director of Property deems necessary or
4 appropriate to consummate the Amended Easement or the SFPUC General Manager deems
5 necessary or appropriate to consummate the Purchase and Sale Agreement and its exhibits,
6 or to otherwise effectuate the purpose and intent of this resolution, such determination to be
7 conclusively evidenced by the execution and delivery by such official of any such documents;
8 and, be it

9 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the SFPUC
10 General Manager to enter into any amendments or modifications to the Purchase and Sale
11 Agreement and enter into ancillary agreements (including the exhibits attached to the
12 Purchase and Sale Agreement) and any other documents or instruments in connection with
13 the Purchase and Sale Agreement that the SFPUC General Manager determines, in
14 consultation with the City Attorney, are in the City's best interest, do not materially decrease
15 the City's benefits or materially increase the City's liabilities or obligations in connection with
16 the proposed sale transaction, and are necessary and advisable to complete the proposed
17 sale transaction and effectuate the purpose and intent of this resolution, such determination to
18 be conclusively evidenced by the execution and delivery by the SFPUC General Manager of
19 any such additions, amendments, or other modifications; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the Director
21 of Property, in the name of and on behalf of the City, to enter into any amendments or
22 modifications to the Amended Easement and any other documents or instruments in
23 connection with the Amended Easement that the Director of Property determines, in
24 consultation with the City Attorney, are in City's best interest, do not materially decrease City's
25 benefits or materially increase the City's liabilities or obligations in connection with the

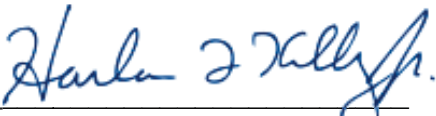
1 proposed sale transaction, and are necessary and advisable to complete the proposed
2 transaction and effectuate the purpose and intent of this resolution, such determination to be
3 conclusively evidenced by the execution and delivery by the Director of Property of any such
4 additions, amendments, or other modifications; and, be it

5 FURTHER RESOLVED, That the Director of Property and/or the SFPUC General
6 Manager is hereby authorized and urged, in the name and on behalf of the City and County,
7 to take any and all steps (including, but not limited to, the execution and delivery of any and all
8 certificates, agreements, notices, consents, escrow instructions, closing documents and other
9 instruments or documents) as the Director of Property or the SFPUC General Manager deem
10 necessary or appropriate, in order to consummate the conveyance of the Property pursuant to
11 the Purchase and Sale Agreement and the Amended Easement, or to otherwise effectuate
12 the purpose and intent of this Resolution, such determination to be conclusively evidenced by
13 the execution and delivery by the Director of Property and/or the SFPUC General Manager of
14 any such documents; and, be it

15 FURTHER RESOLVED, That the Director of Property shall provide the Clerk of the
16 Board of Supervisors a fully executed copy of the Purchase and Sale Agreement within thirty
17 (30) days of signature of same; and, be it

18 FURTHER RESOLVED, That the actions in this resolution are conditioned upon the
19 Board of Supervisors approval of the Development Agreement, and this resolution shall not be
20 operative unless and until the Development Agreement legislation in Clerk of the Board of
21 Supervisors File No. 200423 is final and effective.

1 RECOMMENDED:

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3 General Manager

4 San Francisco Public Utilities Commission

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City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 200740

Date Passed: August 11, 2020

Resolution approving and authorizing the execution of an Agreement for Sale of Real Estate for the conveyance by the City, acting through the San Francisco Public Utilities Commission (SFPUC), to Reservoir Community Partners, LLC of approximately 16.4 acres of real property in Assessor's Parcel Block No. 3180, Lot No. 190, located near Ocean Avenue and Frida Kahlo Way, for \$11,400,000; adopting findings under the California Environmental Quality Act; adopting findings that the conveyance is consistent with the General Plan, and the priority policies of Planning Code, Section 101.1; authorizing the Director of Property and/or the SFPUC's General Manager to execute the Agreement for Sale of Real Estate and related documents for the sale of the property, including an Open Space License, Promissory Note, Deed of Trust, Amended and Restated Easement Agreement and Deed, Declaration of Restrictions, and Recognition Agreement; and authorizing the Director of Property and/or the SFPUC's General Manager to make certain modifications, as described herein, and take certain actions in furtherance of this Resolution, as described herein.

July 29, 2020 Budget and Finance Committee - REFERRED WITHOUT RECOMMENDATION

August 11, 2020 Board of Supervisors - ADOPTED

Ayes: 10 - Fewer, Haney, Mandelman, Peskin, Preston, Ronen, Safai, Stefani, Walton and Yee

Noes: 1 - Mar

File No. 200740

I hereby certify that the foregoing Resolution was ADOPTED on 8/11/2020 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

8.21.20

Date Approved