

1 [Acquisition of Discharge Easements - California Water Service Company - Bay Division
2 Pipeline Nos. 3 and 4 Crossovers Project in San Mateo County - \$3,640]

3 **Resolution approving and authorizing the acquisition of two Discharge Easements**
4 **from the California Water Service Company, a California Corporation, for \$3,640, to**
5 **be used by the City and County of San Francisco (City) for discharge of pipeline**
6 **water and groundwater, as needed for the installation, construction, modification,**
7 **removal, inspection, maintenance, repair, and replacement of the water system**
8 **infrastructure in the City's right of way, including without limitation, periodic**
9 **scheduled maintenance, emergency repairs, and the construction of the project**
10 **known as the Bay Division Pipeline Nos. 3 and 4 Crossovers Project No. CUW38001;**
11 **adopting findings under the California Environmental Quality Act; adopting findings**
12 **that the conveyance is consistent with the City's General Plan and the eight priority**
13 **policies of Planning Code, Section 101.1; and authorizing the Director of Property to**
14 **execute documents, make certain modifications, and take certain actions in**
15 **furtherance of this Resolution.**

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17 WHEREAS, The San Francisco Public Utilities Commission ("SFPUC") is
18 constructing Project No. CUW38001, the Bay Division Pipeline Nos. 3 and 4 Crossovers
19 Project (the "Project"), as part of the Water System Improvement Program ("WSIP"). The
20 Project is located in San Mateo and Santa Clara Counties, at three different locations in the
21 Cities of Santa Clara and Palo Alto in Santa Clara County and the Town of Atherton in San
22 Mateo County. The Project includes, among other related features, the construction of
23 three new facility crossovers including subsurface vault housing valves and actuators and
24 two adjacent concrete pads supporting an emergency generator and electrical and
25 communications control equipment; and

1 WHEREAS, the objectives of the Project are to improve delivery reliability and
2 provide operational flexibility during maintenance activities or unplanned outages, as well
3 as to replenish local reservoirs after such events; and

4 WHEREAS, An Initial Study/Mitigated Negative Declaration as required by CEQA
5 (California Public Resources Code Sections 21000 et seq.) was prepared for the Project;
6 and

7 WHEREAS, On October 23, 2008, the Planning Department reviewed and
8 considered the Initial Study/Final Mitigated Negative Declaration ("IS/FMND") and found
9 that the contents of said report and the procedures through which the IS/FMND was
10 prepared, publicized and reviewed complied with CEQA, the CEQA Guidelines (14
11 California Code of Regulations Sections 15000 et seq.) and Chapter 31 of the San
12 Francisco Administrative Code; and

13 WHEREAS, Thereafter the SFPUC adopted findings under CEQA, including
14 adopting the IS/FMND and a Mitigation Monitoring and Reporting Program ("MMRP") as
15 required by CEQA, and approved the Project, on December 9, 2008 by Resolution No. 08-
16 0225; and

17 WHEREAS, This Board, by Resolution No. 23-09 adopted on January 27, 2009, a
18 copy of which is on file with the Clerk of the Board of Supervisors in File No. 081617 and
19 which is incorporated herein by this reference and considered part of the record before this
20 Board, adopted the IS/FMND and the SFPUC CEQA findings related to the Project as its
21 own including the MMRP; and

22 WHEREAS, The Project requires that City acquire two permanent discharge
23 easements (the "Easements") over and across portions of that real property owned by the
24 California Water Service Company, a California Corporation ("Grantor") located off
25 Reservoir Road in the Town of Atherton, San Mateo County. One easement is required to

1 discharge water from City's water pipelines and groundwater located on City's Right of
2 Way, over and across Grantor's property into Grantor's stilling basin. The second
3 easement is required to discharge water from City's water pipelines and ground water
4 located on City's Right of Way, over and across a portion of Grantor's property into
5 Grantor's catch basin and drain leading to Atherton Creek; and

6 WHEREAS, the Project requires that City acquire two temporary construction
7 easements over and across portions of Grantor's property; and

8 WHEREAS, as a condition to providing the necessary electrical facilities to serve the
9 new crossover facilities at the Project site, PG&E requires a permanent easement across
10 Grantor's land; and

11 WHEREAS, SFPUC staff have negotiated with the Grantor the proposed terms and
12 conditions of City's acquisition of the Easements and the temporary construction
13 easements, and City's payment of the purchase price for PG&E's acquisition of the
14 electrical easement, set forth in the form of an Agreement for Purchase and Sale of Real
15 Estate ("Agreement"), between City, as Grantee, and the California Water Service
16 Company, as Grantor, a copy of which is on file with the Clerk of the Board of Supervisors
17 under File No. 130961, which is incorporated herein by reference and is considered part of
18 the record before this Board; and

19 WHEREAS, On April 28, 2009, SFPUC, by Resolution No. 09-0071, a copy of which
20 is included in Board of Supervisors File No. 130961 and which is incorporated herein by
21 this reference: (1) approved the proposed acquisition of the Easements and authorized the
22 SFPUC General Manager and/or the Director of Property, following Board of Supervisors
23 approval of the acquisition of the Easements, to execute the Agreement with such
24 additional terms that are in the public interest and in the judgment of the General Manager
25 and/or Director of Property, in consultation with the City Attorney, are reasonable and

1 appropriate for the scope and duration of the City's power requirements as necessary for
2 the Project; and (2) adopted findings under CEQA related to the Easement; and

3 WHEREAS, The Project files, including the IS/FMNDA, MMRP and SFPUC
4 Resolutions No. 08-0225 and 09-0071 have been made available for review by the Board
5 and the public, and those files are considered part of the record before this Board; and

6 WHEREAS, The Board of Supervisors has reviewed and considered the information
7 and findings contained in the IS/FMND and MMRP and SFPUC Resolutions No. 08-0225
8 and 09-0071, and all written and oral information provided by the Planning Department, the
9 public, relevant public agencies, SFPUC and other experts and the administrative files for
10 the Project; and

11 WHEREAS, The Director of Planning, by letter dated December 8, 2008, found that
12 the acquisition of all the necessary property rights for the Project, is consistent with the
13 City's General Plan and with the Eight Priority Policies of City Planning Code Section
14 101.1, which letter is on file with the Clerk of the Board of Supervisors under File No.
15 130961, and which letter is incorporated herein by this reference; now, therefore, be it

16 RESOLVED, The Board has reviewed and considered the IS/FMND and record as a
17 whole, finds that the IS/FMND is adequate for its use as the decision making body for the
18 action taken herein and hereby incorporates by this reference as though set forth in this
19 resolution the CEQA findings contained in SFPUC Resolution No. 08-0225 and previously
20 adopted as the Board's own by Resolution No. 23-09; and, be it

21 FURTHER RESOLVED, The Board finds that the Project mitigation measures
22 adopted by the SFPUC will be implemented as reflected in and in accordance with the
23 MMRP; and, be it

24 FURTHER RESOLVED, The Board finds that since the IS/FMND was finalized,
25 there have been no substantial project changes and no substantial changes in the Project

1 circumstances that would require major revisions to the IS/FMND due to the involvement of
2 new significant environmental effects or an increase in the severity of previously identified
3 significant impacts, and there is no new information of substantial importance that would
4 change the conclusions set forth in the IS/FMND; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors of the City and County of
6 San Francisco hereby finds that the City's acquisition of the Easements from the California
7 Water Service Company pursuant to the Agreement is consistent with the General Plan
8 and with the Eight Priority Policies of city planning Code Section 101.1 for the same
9 reasons as set forth in the letter of the Director of Planning dated December 8, 2008,
10 hereby incorporates such findings by references as though fully set forth in this resolution;
11 and, be it

12 FURTHER RESOLVED, That in accordance with the recommendations of the Public
13 Utilities Commission and the Director of Property, the Board of Supervisors hereby
14 approves the Agreement and the transaction contemplated thereby in substantially the form
15 of such instrument presented to this Board; and, be it

16 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
17 Property and/or the SFPUC's General Manager to enter into any additions, amendments or
18 other modifications to the Agreement (including, without limitation, the attached exhibits)
19 that the Director of Property and/or the SFPUC's General Manager determines are in the
20 best interest of the City, that do not materially increase the obligations or liabilities of the

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1 City, and are necessary or advisable to complete the transaction contemplated in the
2 Agreement and effectuate the purpose and intent of this resolution, such determination to
3 be conclusively evidenced by the execution and delivery by the Director of Property of the
4 Agreement and any amendments thereto; and, be it

5 FURTHER RESOLVED, That the Director of Property is hereby authorized and
6 urged, in the name and on behalf of the City and County, to execute and deliver the
7 Agreement with the California Water Service Company upon the closing in accordance
8 with the terms and conditions of the Agreement, and to take any and all steps (including,
9 but not limited to, the execution and delivery of any and all certificates, agreements,
10 notices, consents, escrow instructions, closing documents and other instruments or
11 documents) as the Director of Property deems necessary or appropriate in order to
12 consummate the acquisition of the Easements pursuant to the Agreement, or to otherwise
13 effectuate the purpose and intent of this resolution, such determination to be conclusively
14 evidenced by the execution and delivery by the Director of Property of any such
15 documents.

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18 RECOMMENDED:

FUNDS AVAILABLE:

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John Updike
Director of Property

Controller
Appropriation: Index Code 738009

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