

File No. 171200

Committee Item No. 15

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date December 7, 2017

Board of Supervisors Meeting Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
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- Budget and Legislative Analyst Report
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- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

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Completed by: Victor Young Date December 1, 2017
Completed by: _____ Date _____

1 [Grant of Easement - Pacific Gas and Electric Company - 68.25 Square Feet at Northern
2 Edge of Parcel - 1101 Connecticut - At No Cost]

3 **Resolution approving and authorizing the grant of an easement on the City's property,**
4 **consisting of 68.25 square feet of land at the northern edge of the parcel located at**
5 **1101 Connecticut Street (Assessor's Parcel Block No. 4287, Lot No. 076), at no cost;**
6 **and authorizing the Director of Property to execute documents, make certain**
7 **modifications and take certain actions in furtherance of this Resolution, as defined**
8 **herein.**

9
10 WHEREAS, In August 2007, the San Francisco Board of Supervisors established the
11 HOPE SF program to fund revitalization of San Francisco's most distressed public housing
12 (Ordinance No. 180-07 and 556-07); and

13 WHEREAS, In October 2007, the Housing Authority of San Francisco ("SFHA") issued
14 a Request for Qualifications to Redevelop Authority Property for seven sites including Potrero
15 Terrace and Potrero Annex ("Potrero"); and

16 WHEREAS, In March 2008, the SFHA Board of Commissioners selected BRIDGE
17 Housing Corporation as the developer for the revitalization of Potrero through HOPE SF; and

18 WHEREAS, In April 2008, the Mayor's Office of Housing and Community Development
19 ("MOHCD") issued a Notice of Funding Availability for selected HOPE SF developers and
20 BRIDGE Housing Corporation was the recipient for Potrero; and

21 WHEREAS, as part of the revitalization of Potrero, the City acquired fee title to 1101
22 Connecticut Street (Assessor's Parcel Block No. 4287, Lot No. 076) (the "Site," and
23 "Easement Area"), which is under the jurisdiction of MOHCD and adjacent Potrero; and

24 WHEREAS, BRIDGE Housing Corporation established a separate entity named
25 Potrero Housing Associates I, L.P., a California limited partnership ("Developer"), to lease the

1 Site and develop 72 units for low income families and individuals on the Site as part of HOPE
2 SF Potrero (the "Project"); and

3 WHEREAS, By letter dated January 13, 2016, the Department of City Planning
4 adopted and issued a General Plan Consistency Finding, a copy of which is on file with the
5 Clerk of the Board, wherein the Department of City Planning found that the acquisition of the
6 Property are consistent with the City's General Plan, and with the eight priority policies under
7 Planning Code, Section 101.1; and

8 WHEREAS, On December 10, 2015, the Department of City Planning certified the
9 Final Environmental Impact Report (Motion No. 19529), adopted CEQA Finding including a
10 statement of overriding considerations (Motion No. 19530), and adopted Findings of
11 Consistency with the General Plan and Planning Code, Section 101.1 (Motion No. 19531);
12 and

13 WHEREAS, In June 2016, the San Francisco Board of Supervisors passed a resolution
14 authorizing the execution and performance of an Option to Ground Lease (Resolution
15 No. 225-16, File No. 160555); and

16 WHEREAS, on December 14, 2016, the City entered into a 75 year Ground Lease,
17 with 24 year extension option with the Developer, and the Developer has commenced
18 construction of the Project; and

19 WHEREAS, Pacific Gas and Electric Company ("PG&E") has the right to install poles,
20 wires, conduits, and related appurtenances for the distribution and transmission of electricity
21 in City's streets pursuant to a franchise granted by Ordinance No. 414, adopted by the City's
22 Board of Supervisors on December 19, 1939, and California Public Utilities Code, Section
23 6201 (together, the "Franchise Agreement"); and

24 WHEREAS, The Developer has determined, with agreement by MOHCD, that for
25 purposes of construction and for the ongoing benefit of the Project, PG&E will relocate

1 existing power poles and install an underground distribution electrical vault adjacent to the
2 Site in the street at 25th Street (the "Vault") to provide power to the Project pursuant to the
3 Franchise Agreement; and

4 WHEREAS, As required by law, PG&E is required to have complete access to the
5 Vault, which requires PG&E to use the Easement Area for access to and maintenance of the
6 Vault; and

7 WHEREAS, The City desires to grant an easement ("Easement") for a portion of the
8 Site pursuant to an Easement Agreement in substantially the form approved by the Director of
9 Property and the Acting Director of MOHCD on file with the Clerk of the Board of Supervisors
10 in File No. _____, incorporated herein by reference; and

11 WHEREAS, The Director of Property has determined the fair market value of the
12 Easement Area is less than Ten Thousand Dollars (\$10,000) based on a review of available
13 and relevant data and no appraisal is required pursuant to Administrative Code, Section 23.3;
14 now, therefore, be it

15 RESOLVED, That the Board of Supervisors finds that the public interest or necessity
16 will not be inconvenienced by the conveyance of the Easement, because the Easement Area
17 is located within building setback area and will not impede or obstruct the construction of
18 affordable housing buildings on the Site; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors finds that a grant of the
20 easement to PG&E at no cost will serve the public purpose of creating affordable housing for
21 low income families and revitalize Potrero; and, be it

22 FURTHER RESOLVED, That in accordance with the recommendation of the Director
23 of Property, the Board of Supervisors hereby approves the grant of the Easement at no cost,
24 and the terms and conditions of the Easement Area in substantially the form of the Easement
25

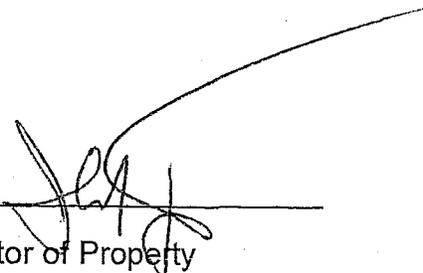
1 Agreement presented to the Board and authorizes the Director of Property, in the name and
2 on behalf of the City and County, to execute the Easement Agreement; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
4 Property to enter into any amendments or modifications to the Easement Agreement
5 (including, without limitation, the attached exhibits) that the Director of Property determines, in
6 consultation with the City Attorney, are in the best interest of the City, do not otherwise
7 materially diminish the benefits to the City or increase the obligations or liabilities of the City,
8 are necessary or advisable to effectuate the purposes of the Easement Agreement and are in
9 compliance with all applicable laws, including City's Charter; and, be it

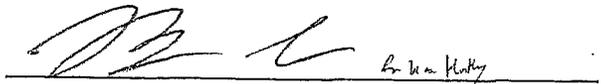
10 FURTHER RESOLVED, That the Director of Property is hereby authorized and urged,
11 in the name and on behalf of the City and County, to take any and all steps (including, but not
12 limited to, the execution and delivery of any and all certificates, agreements, notices,
13 consents, escrow instructions,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

18 FURTHER RESOLVED, That within thirty (30) days of the execution of the Easement
19 Agreement, the Director of Property shall provide a copy to the Clerk of the Board for the
20 Board's file.

1 RECOMMENDED:



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4 John Updike, Director of Property



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7 Kate Hartley, Acting Director, Mayor's Office of Housing and Community Development

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Free Recording Requested Pursuant to
California Government Code Section 27383

Recording requested by and
when recorded mail to:

PACIFIC GAS AND ELECTRIC COMPANY
245 Market Street, N10A, Room 1015
P.O Box 770000
San Francisco, California 94177

(Space above this line reserved for Recorder's use only)

LD##XXSF-00-4596

EASEMENT DEED

POTRERO HOPE #6

EASEMENT AGREEMENT
(Portion of Block 4287 Lot 076, San Francisco)
1101 Connecticut Street

THIS EASEMENT AGREEMENT (this "**Agreement**"), dated for reference purposes only as of _____, 20__ ("**Agreement Date**"), is made by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), and PACIFIC GAS AND ELECTRIC COMPANY, a California corporation ("**PG&E**").

RECITALS

A. City owns that certain real property located at Block 4287 Lot 076, 1100 Connecticut Street in the City and County of San Francisco, California, (the "**Property**"). City and Potrero Housing Associates I, a California limited partnership ("**Tenant**"), have entered into that certain Ground Lease dated as of December 16, 2016, for the purpose of leasing the Property to Tenant and developing the Property into affordable housing for very-low and low-income persons (the "**Project**").

B. PG&E has the right to install poles, wires, conduits, and related appurtenances for the distribution and transmission of electricity in City's streets pursuant to a franchise granted by Ordinance No. 414, adopted by the City's Board of Supervisors on December 19, 1939, and Section 6201 of the California Public Utilities Code (together, the "**Franchise Agreement**"). Pursuant to the Franchise Agreement, PG&E will install certain Electric Facilities (as defined below) adjacent to the Property as part of the Project. PG&E requires a permanent easement to use a portion of the Property for access and maintenance of such Electric Facilities.

C. PG&E and Tenant have requested City to grant PG&E an easement, and PG&E and City wish to enter into this Agreement to memorialize the right to use that portion of the Property and described on Exhibit A and Exhibit B (the "**Easement Area**") for access to and maintenance of its Electrical Facilities (as defined below), all on the terms and conditions set forth in this Agreement.

AGREEMENT

ACCORDINGLY, City grants PG&E an access easement as follows:

1. Grant of Easement. City, hereby grants a non-exclusive access easement to PG&E with the right from time to time to use the Easement Area, as hereinafter set forth, to construct, excavate, reconstruct, install, inspect, maintain, replace (of the initial or reasonably equivalent size), repair, remove, and use facilities of the type hereinafter specified adjacent to the Easement Area ("**Easement Activities**"), and also ingress thereto and egress therefrom, over and across the Property.

Said facilities adjacent to the Easement Area are described as follows: Such overhanging wires, cables, crossarms, poles; underground conduits, pipes, service boxes, manholes, wires, cables, and electrical conductors, risers, switches, fuses and terminals; and fixtures and appurtenances necessary to any and all thereof ("**Electrical Facilities**"), as PG&E deems necessary for the distribution of electric energy and communication purposes associated with PG&E's internal use located adjacent to the Easement Area.

2. Use of Easement Area.

2.1 Vegetation Management. PG&E shall have the right, from time to time, to trim or cut down any and all trees and brush now or hereafter within the Easement Area to the extent required to maintain proper clearance from energized electric lines or to comply with applicable state or federal regulations. After any pruning or vegetation removal, PG&E shall restore the Easement Area to substantially the condition it was in prior to its arrival.

2.2 Access. PG&E shall access the Easement Area only by such streets as now or hereafter exist or, in the absence of any paved streets, by such route as shall occasion the least injury to the adjoining property.

2.3 Compliance with Laws; Maintenance. PG&E shall conduct the Easement Activities in compliance with all applicable laws, through sound construction practices and in a lien-free manner, and PG&E shall diligently pursue its construction or maintenance activities to completion. PG&E shall secure and pay for any building and other permits and approvals, government fees, licenses and inspections necessary for the proper performance and completion of its construction or maintenance activities in the Easement Area, including, but not limited to any approvals required by City acting in its regulatory capacity. PG&E shall be solely responsible for maintaining all Electrical Facilities, including all replacements installed in the Easement Area pursuant to Section 3 in good and safe condition, and City shall have no duty whatsoever for any maintenance of the Easement Area, the Electrical Facilities or any Replacement Improvements.

2.4 City's Reserved Rights. Notwithstanding anything to the contrary in this Agreement, City reserves and retains all of the following rights relating to the Easement Area, so long as the City's activities do not unreasonably interfere with PG&E's access to the Easement Area, Easement Activities, or PG&E's operations of its Electric Facilities, provided that they do not conflict with the limitations set out in Section 2.5, below (collectively, the "**Reserved Rights**"): (i) the right to any and all water, timber, mineral and oil rights of any kind; (ii) the right to grant future rights to a third party over, across, under, in and on the Easement Area as City shall determine in its sole discretion, including use of the Easement Area for non-City utilities; (iii) the right to maintain or install telecommunication facilities or other City facilities or property; (iv) the right to install, maintain, replace and remove any type of paving, drainage improvements including bio-planters, landscaping and hardscaping; (v) the right to use the surface of the Easement Area for the construction and operation of a driveway, sidewalk, parking area, drainage improvements, bio-planters, bio-filtration planters or other improvements; (vi) the right to use the Easement Area for the demolition of existing surface improvements, regrading and repaving, removal of existing building, and construction of improvements, including the installation of facilities and improvements and relocation or revisions to existing City utilities

and improvements as part of such construction and/or demolition work; and (vii) any other use that does not unreasonably interfere with PG&E's rights granted herein; provided, however, that such limitation shall not apply to City's exercise of its relocation rights under Section 4.4 below. City's exercise of the Reserved Rights shall not materially interfere with PG&E's rights granted herein.

2.5 Limitation on City's Use. City shall not erect or construct any building or other structure (as defined herein) or drill or operate any well within the Easement Area. For purposes of this Agreement, a "structure" prohibited by this restriction shall mean those improvements that would interfere with the operation or maintenance of the Electric Facilities or impede access, including without limitation antennas, poles, platforms and similar improvements that may create an obstacle or clearance infraction.

3. Installation of Replacement Improvements; Maintenance and Repair Activities. PG&E may replace the Electrical Facilities with like kind items that are placed in the same location adjacent to the Easement Area ("**Replacement Improvements**"), and perform maintenance and repairs on the Electrical Facilities and any Replacement Improvements, on satisfaction of the following conditions, which are for the sole benefit of City:

3.1 Permits and Approvals. PG&E shall obtain all applicable permits, licenses and approvals (collectively, "**Approvals**") required by any regulatory agencies with jurisdiction over the Electric Facilities. PG&E recognizes and agrees that no approval by City for purposes of PG&E's installation work hereunder shall be deemed to constitute the approval of any federal, state or local regulatory authority with jurisdiction, and nothing herein shall limit PG&E's obligation to obtain all such Approvals, at PG&E's sole cost.

3.2 Exercise of Due Care; Fencing of Excavations. PG&E shall use, and shall cause its agents to use, due care at all times to avoid any damage or harm to City's property. PG&E shall take such soil and resource conservation and protection measures with the Easement Area as City may reasonably request. City shall have the right to approve and supervise any excavation work. All excavations created by PG&E in the Easement Area shall be completely fenced, and during any times that work is not actively being performed at such excavation, shall be covered and secured. PG&E shall do everything reasonably within its power, both independently and upon request by City, to prevent and suppress unsafe conditions or fires on and adjacent to the Easement Area attributable to PG&E's use hereunder.

3.3 Cooperation with City Personnel. PG&E and its agents shall work cooperatively with City personnel to reasonably minimize any potential disturbance of the natural features of the Easement Area and to avoid unreasonable disruption of City property in, under, on or about the Easement Area and the uses of the Easement Area by City and its tenants, subtenants, licensees, sublicensees and invitees. Except for maintenance work on any overhead Electric Facilities, construction sites shall be screened with temporary fencing where possible to reduce visual impact, and work shall be conducted during hours reasonably acceptable to City.

4. Restrictions on Use. PG&E agrees that, by way of example only and without limitation, the following uses of the Easement Area by PG&E or any other person claiming by or through PG&E are inconsistent with the limited purpose of this Agreement and are strictly prohibited as provided below:

4.1 Improvements; Signs. Except for the Electrical Facilities and any Replacement Improvements, PG&E shall not construct or place any temporary or permanent structures or improvements, including but not limited to signs, advertisements, banners or similar objects on or about the Easement Area.

4.2. **Hazardous Material.** PG&E shall not cause, nor shall PG&E allow any of its agents or invitees to cause, any storage, release or disposal of Hazardous Material (as defined below) to in, on or about the Easement Area, or transported to or from the Easement Area. PG&E shall immediately notify City when PG&E learns of, or has reason to believe that, such a release of Hazardous Material has occurred in, on or about the Easement Area. PG&E shall further comply with all laws requiring notice of such releases or threatened releases to governmental agencies, and shall take all action necessary to mitigate the release or minimize the spread of contamination. In the event that PG&E or its agents or invitees cause a release of Hazardous Material, PG&E shall, without cost to City properly remediate the Easement Area and any other affected property and return such property as close as reasonably possible to the condition immediately prior to the release, in accordance with all laws and regulations.. In connection therewith, PG&E shall afford City a full opportunity to participate in any discussion with governmental agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree or other compromise proceeding involving Hazardous Material. For purposes hereof, "**Hazardous Material**" means material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any federal, state or local governmental authority to pose a present or potential hazard to public health, welfare or the environment. Hazardous Material includes, without limitation, any material or substance defined as a "hazardous substance, pollutant or contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 *et seq.*, or pursuant to Section 25316 of the California Health & Safety Code; a "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials whether or not such materials are part of the Easement Area or are naturally occurring substances in the Easement Area, and any petroleum, including, without limitation, crude oil or any fraction thereof, natural gas or natural gas liquids. The term "release" or "threatened release" when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing in, on, under or about the Easement Area.

4.3. **Dumping; Nuisances; Damage.** PG&E shall not dump or dispose of refuse or other unsightly materials on, in, under or about the Easement Area, nor shall PG&E conduct any activities on or about the Easement Area that constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises or lights) to City, to the owners or occupants of neighboring property or to the public, or that will cause damage to any of City's property.

4.4. **Relocation of Electrical Facilities and Easement Area.** If City reasonably determines that PG&E's use of the Easement Area pursuant to this Agreement interferes with any City municipal purpose, including an existing or future City utility, PG&E shall relocate the interfering Electrical Facilities or Replacement Improvements, as applicable, to the location reasonably designated by City at City's sole cost.

If City exercises its relocation right under this Section, City shall deliver written notice (a "City Relocation Notice") of such election, the proposed replacement location for the Electrical Facilities or the Replacement Improvements, as applicable, and the proposed date for completion of such relocation, to PG&E no less than ninety (90) days prior to the proposed completion date for such relocation. PG&E shall perform and complete any relocation work pursuant to this Section in a good and diligent manner and in compliance with all applicable laws.

5. **Term of Easement.** The easement given to PG&E pursuant to this Agreement shall commence on the date on which (i) the City's Board of Supervisors has adopted a resolution or ordinance approving this Agreement, and (ii) the parties hereto have duly executed and delivered this Agreement, and shall only terminate if PG&E surrenders or abandons the Easement Area,

PG&E and City enter into a writing that terminates this Agreement, or PG&E realigns its Electrical Facilities in the adjacent streets such that it no longer requires the use of the Easement Area.

6. **Compliance with Laws.** PG&E shall, at its expense, conduct and cause to be conducted all activities on the Easement Area allowed hereunder in a safe and prudent manner and in compliance with all laws, regulations, codes, ordinances and orders of any governmental or other regulatory entity (including, without limitation, the Americans with Disabilities Act), whether presently in effect or subsequently adopted and whether or not in the contemplation of the parties. PG&E shall, at its sole expense, procure and maintain in force at all times during its use of the Easement Area any and all business and other licenses or approvals necessary to conduct the activities allowed hereunder. PG&E understands and agrees that City is entering into this Agreement in its capacity as a property owner with a proprietary interest in the Easement Area and not as a regulatory agency with police powers. Nothing herein shall limit in any way PG&E's obligation to obtain any required regulatory approvals from City departments, boards or commissions or other governmental regulatory authorities or limit in any way City's exercise of its police powers.

7. **Covenant to Maintain Easement Area.** In connection with its use hereunder, PG&E shall at all times, at its sole cost, maintain the Easement Area in a good, clean, safe, secure, sanitary and sightly condition, so far as the Easement Area may be affected by PG&E's activities hereunder.

8. **Waiver of Claims; Waiver of Consequential and Incidental Damages.** Neither City nor any of its commissions, departments, boards, officers, agents or employees shall be liable for any consequential or incidental damages suffered by PG&E; or for damage to the property of PG&E, its officers, agents, employees, contractors or subcontractors, or their employees; or for any bodily injury or death to such persons; or for any other claim or damage of any kind resulting or arising from PG&E's use of the Easement Area. PG&E expressly waives any and all claims against the City arising from the use of the Easement Area by PG&E.

9. **Repair of Damage; Additional Named Insured Certificate.** If any portion of the Easement Area or any property of City or any City licensee, sublicensee, tenant or subtenant located on or about the Easement Area is damaged by any of the activities conducted by PG&E hereunder, PG&E shall immediately, at its sole cost, repair any and all such damage and restore such damaged Easement Area or property to its previous condition. PG&E shall require that its commercial general liability insurance carrier and/or its contractor or agent's commercial general liability carrier name the City as an additional insured. PG&E shall have the right to self-insure with respect to any of the insurance requirements required under this Agreement. To the extent that PG&E is self insured it shall treat the City as if it were an additional named insured under PG&E's insurance policies.

10. **Location of Utilities.** This Agreement is subject to all licenses, leases, easements, restrictions, conditions, covenants, encumbrances, liens and claims of title affecting the Easement Area as of the date of this Agreement. City has no responsibility or liability of any kind with respect to any utilities that may be on, in or under the Easement Area. PG&E has the sole responsibility to locate such utilities and protect them from damage. Except where PG&E may have a priority in title under this Agreement, PG&E shall arrange and pay for any necessary temporary relocation of City and public utility company facilities performed in connection with PG&E's exercise of its rights under this Agreement, subject to the prior written approval by City and any such utility companies of any such relocation. PG&E shall be solely responsible for arranging and paying directly for any utilities or services necessary for its activities hereunder.

11. **City's Right to Cure Defaults by PG&E.** If PG&E fails to perform any of its obligations under this Agreement, to restore the Easement Area or repair damage, or if PG&E defaults in the performance of any of its other obligations under this Agreement, then City may, at its election, remedy such failure for PG&E's account and at PG&E's expense by providing PG&E with thirty (30) days' prior written or oral notice of City's intention to cure such default (except that no such prior notice shall be required in the event of an emergency as determined by City). Such action by City shall not be construed as a waiver of any rights or remedies of City under this Agreement, and nothing herein shall imply any duty of City to do any act that PG&E is obligated to perform. PG&E shall pay to City upon demand, all costs, damages, expenses or liabilities incurred by City, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such default. PG&E's obligations under this Section shall survive the termination of this Agreement.

12. **No Costs to City.** PG&E shall bear all costs or expenses of any kind or nature in connection with its use of the Easement Area, and shall keep the Easement Area free and clear of any liens or claims of lien arising out of or in any way connected with its use of the Easement Area.

13. **Indemnity.** PG&E shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability of every kind and nature arising directly or indirectly from PG&E's use of the Easement Area, including but not limited to its agents, employees, consultants, contractors, and/or invitees, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the sole active negligence or willful misconduct of City and is not contributed to by any act or omission by PG&E, or its agent(s) or employee(s). The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to PG&E's obligation to indemnify City, PG&E specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to PG&E by City and continues at all times thereafter.

14. **"As Is" Condition; Disclaimer of Representations.** PG&E accepts the Easement Area in its "AS IS" condition, without representation or warranty of any kind by City, its officers, agents or employees, including, without limitation, the suitability, safety, or duration of availability of the Easement Area or any facilities on the Easement Area for PG&E's use. City makes no warranty as to its title to the Easement Area or as to the existence of any encumbrance or utility installations affecting the Easement Area. Without limiting the foregoing, this Agreement is made subject to all applicable laws, rules and ordinances governing the use of the Easement Area, and to any and all covenants, conditions, restrictions, easements, encumbrances, claims of title and other title matters affecting the Easement Area, whether foreseen or unforeseen, and whether such matters are of record or would be disclosed by an accurate inspection or survey. It is PG&E's sole obligation to conduct an independent investigation of the Easement Area and all matters relating to its use of the Easement Area hereunder, including, without limitation, the suitability of the Easement Area for such uses. PG&E, at its own expense, shall obtain such permission or other approvals from any third parties with existing rights as may be necessary for PG&E to make use of the Easement Area in the manner contemplated hereby.

15. **Assignment.** Neither this Agreement, nor any right granted hereunder, shall be assigned, conveyed or otherwise transferred by PG&E without the prior written consent of City, which may be given or withheld in City's sole discretion.

16. **No Joint Venture of Partnership; No Authorization.** This Agreement does not create a partnership or joint venture between City and PG&E as to any activity conducted by PG&E on, in or relating to the Easement Area. PG&E is not a State actor with respect to any activity conducted by PG&E on, in, or under the Easement Area. The giving of this Agreement by City does not constitute authorization or approval by City of any activity conducted by PG&E on, in or relating to the Easement Area.

17. **MacBride Principles - Northern Ireland.** The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq.* The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. PG&E acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

18. **Non-Discrimination.**

18.1 **Covenant Not to Discriminate.** In the performance of this Agreement, PG&E agrees not to discriminate against any employee of, any City employee working with PG&E, or applicant for employment with PG&E, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

18.2 **Subcontracts.** PG&E shall include in all subcontracts relating to the Easement Area a non-discrimination clause applicable to such subcontractor in substantially the form of Subsection 18.1 above. In addition, PG&E shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subcontractors to comply with such provisions. PG&E's failure to comply with the obligations in this Subsection shall constitute a material breach of this Agreement.

18.3 **Non-Discrimination in Benefits.** PG&E does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by City, or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

18.4 **Condition to Agreement.** As a condition to this Agreement, PG&E shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-

12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission (the "HRC"). PG&E hereby represents that prior to execution of this Agreement, (i) PG&E executed and submitted to the HRC Form HRC-12B-101 with supporting documentation, and (ii) the HRC approved such form.

18.5 Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the use of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. PG&E shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, PG&E understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against PG&E and/or deducted from any payments due PG&E.

19. Tropical Hardwood and Virgin Redwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product, except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code. PG&E agrees that, except as permitted by the application of Sections 802(b) and 803(b), PG&E shall not use or incorporate any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product in the performance of this Agreement.

20. Notification of Limitations on Contributions. Through its execution of this Agreement, PG&E acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. PG&E acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. PG&E further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of PG&E's board of directors, chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in PG&E; any subcontractor listed in the contract; and any committee that is sponsored or controlled by PG&E. Additionally, PG&E acknowledges that PG&E must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. PG&E further agrees to provide to City the names of each person, entity or committee described above.

21. Possessory Interest Taxes. PG&E recognizes and understands that this Agreement may create a possessory interest subject to property taxation and that PG&E may be subject to the payment of property taxes levied on such interest under applicable law. PG&E agrees to pay taxes of any kind, including possessory interest taxes, if any, that may be lawfully assessed on PG&E's interest under this Agreement or use of the Easement Area pursuant hereto and to pay any other taxes, excises, licenses, permit charges or assessments based on PG&E's usage of the

Easement Area that may be imposed upon PG&E by applicable law. PG&E shall pay all of such charges when they become due and payable and before delinquency.

22. **Pesticide Prohibition.** PG&E shall comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require PG&E to submit to the City's Office of the City Administrator, Real Estate Division, an integrated pest management ("**IPM**") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that PG&E may need to apply to the Easement Area during the term of this Agreement, (b) describes the steps PG&E will take to meet the City's IPM Policy described in Section 300 of the Pesticide Ordinance and (c) identifies, by name, title, address and telephone number, an individual to act as the PG&E's primary IPM contact person with the City. In addition, PG&E shall comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance.

23. **Prohibition of Tobacco Sales and Advertising.** PG&E acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on the Easement Area. This advertising prohibition includes the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of cigarettes and tobacco products, or (ii) encourage people not to smoke or to stop smoking.

24. **Prohibition of Alcoholic Beverage Advertising.** PG&E acknowledges and agrees that no advertising of alcoholic beverages is allowed on the Easement Area. For purposes of this section, "alcoholic beverage" shall be defined as set forth in California Business and Professions Code Section 23004, and shall not include cleaning solutions, medical supplies and other products and substances not intended for drinking. This advertising prohibition includes the placement of the name of a company producing, selling or distributing alcoholic beverages or the name of any alcoholic beverage in any promotion of any event or product. This advertising prohibition does not apply to any advertisement sponsored by a state, local, nonprofit or other entity designed to (i) communicate the health hazards of alcoholic beverages, (ii) encourage people not to drink alcohol or to stop drinking alcohol, or (iii) provide or publicize drug or alcohol treatment or rehabilitation services.

25. **Conflicts of Interest.** Through its execution of this Agreement, PG&E acknowledges that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Sections 87100 *et seq.* and Sections 1090 *et seq.* of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provision, and agrees that if PG&E becomes aware of any such fact during the term of this Agreement, PG&E shall immediately notify the City.

26. **Notices.** Except as otherwise expressly provided herein, any notices given under this Agreement shall be effective only if in writing and given by delivering the notice in person, by sending it first class mail or certified mail, with a return receipt requested, or overnight courier, return receipt requested, with postage prepaid, addressed as follows:

City:

City and County of San Francisco
Director of Property

City Hall, Room 362
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682

with copy to:

Mayor's Office of Housing and Community
Development
1 South Van Ness, Fifth Floor
San Francisco, CA 94102
Attn: Director

PG&E:

Land Management Department
Pacific Gas and Electric Company
P.O. Box 770000, Mail Code N10A
San Francisco, CA 94177
Attn: Manager, Land Asset Management

Notices herein shall be deemed given two (2) days after the date when it shall have been mailed if sent by first class, certified or overnight courier, or upon the date personal delivery is made.

In the event of any emergency situation caused by PG&E's use of the Easement Area, the Electrical Facilities or any Replacement Improvements, PG&E shall also immediately call the Property Management Divisions 24 hour emergency line at (415) 553-1516 or Real Estate Divisions Main number (415) 554-9850 during business hours Monday through Friday 8:00 a.m. to 5:00 p.m.

27. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Electronic signatures shall be acceptable and deemed original.

28. **Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

29. **General Provisions.** (a) This Agreement may be amended or modified only by a writing signed by City and PG&E and recorded in the Official Records of San Francisco County. (b) No waiver by any party of any of the provisions of this Agreement shall be effective unless in writing and signed by an officer or other authorized representative, and only to the extent expressly provided in such written waiver. (c) Except as otherwise provided herein, all approvals and determinations of City requested, required or permitted hereunder may be made in the sole and absolute discretion of the Director of Property or other authorized City official. (d) This instrument (including the exhibit(s) hereto) contains the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. (e) The section and other headings of this Agreement are for convenience of reference only and shall be disregarded in the interpretation of this Agreement. (f) Time is of the essence. (g) This Agreement shall be governed by California law and the City's Charter. (h) Subject to the prohibition against assignments or other transfers by PG&E hereunder, this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives, successors and assigns.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

PG&E represents and warrants to City that it has read and understands the contents of this Agreement and agrees to comply with and be bound by all of its provisions.

PG&E:

PACIFIC GAS AND ELECTRIC COMPANY,
a California corporation

By: _____

[Mahyar Congirlu]
[Supervisor, Land Rights Services]

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____

John Updike
Director of Property

RECOMMENDED:

By: _____

Kate Hartley, Acting Director
Mayor's Office Housing and Community Development

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: _____

Keith Nagayama, Deputy City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____, before me, _____
Here insert name and title of the officer

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Seal)

CAPACITY CLAIMED BY SIGNER

- Individual(s) signing for oneself/themselves
- Corporate Officer(s) of the above named corporation(s)
- Trustee(s) of the above named Trust(s)
- Partner(s) of the above named Partnership(s)
- Attorney(s)-in-Fact of the above named Principal(s)
- Other _____

EXHIBIT A

Legal Description of Easement Area

EXHIBIT "A"
PG&E EASEMENT
POTRERO HOPE #6

The land referred to is situated in the City and County of San Francisco, State of California, and is described as follows:

Being a portion of the leasehold estate of Potrero Housing Associates I, L.P., as described in that certain Ground Lease dated as of December 14, 2016, made by and between the City and County of San Francisco, a municipal corporation, as lessor, and Potrero Housing Associates I, L.P., as lessee, recorded December 20, 2016 as that certain Multifamily Leasehold Deed of Trust, Assignment Of Rents, Security Agreement And Fixture Filing (California) under Document Number 2016-K377677 being further described as follows:

Beginning at a point on the southerly line of 25th Street, distant South 89°59'50" East, 32.12 feet from the intersection of the southerly line of 25th Street and the easterly line of Connecticut Street as shown on that certain map entitled Map Of Potrero Low Rent Housing Project Showing Street Opening filed September 25, 1940 in Book O of Maps at Page 16 in the Office of the Recorder of the City and County of San Francisco; thence along said line of 25th Street, South 89°59'50" East 19.50 feet; thence at a right angle South 00°00'10" West, 3.50 feet; thence at a right angle North 89°59'50" West, 19.50 feet; thence at a right angle North 00°00'10" East, 3.50 feet to the Point of Beginning.

Containing 68.25 Sq. Ft. more or less

Being portion Assessor's Lot 076, Block 4287 (Former Lot 007)

See Exhibit "B" for graphic depiction.

This description prepared by Carlile • Macy.


Jonathan R. Olin
PLS 7590



10/16/2017
Date

END OF DESCRIPTION

EXHIBIT B

Plat Map of Easement Area

Attach to LD XXSF-00-4596
Area 1, San Francisco Division
Land Service Office: San Francisco
Line of Business: 43
Business Doc Type: EASEMENTS
USGS location: 23.03.05.15.23
Block 4287
FERC License Number(s): N/A
PG&E Drawing Number(s): N/A
PLAT NO.: Electric C0405
LD of any affected documents: N/A
LD of any Cross-referenced documents: N/A
TYPE OF INTEREST: 3, 43
SBE Parcel Number: N/A
(For Quitclaims, % being quitclaimed): N/A
Order # or PM #: 31304088
JCN: N/A
County: San Francisco
Utility Notice Numbers: N/A
851 Approval Application No. N/A Decision N/A
Prepared By: SKW0
Checked By: *dqt1*
Approved By: *LMHR* (10/17/17)

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 NOV 14 PM 4:49
Time stamp

BY [Signature] for meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

Cohen

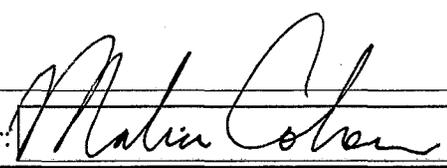
Subject:

Grant of Easement to Pacific Gas and Electric Company - 68.25 square feet at nothern edge of parcel at 1101 Connecticut

The text is listed:

Attached

Signature of Sponsoring Supervisor:



For Clerk's Use Only