

1 [Real Property Acquisition - Easements from Bay Area Rapid Transit - Regional Groundwater  
2 Storage and Recovery Project, San Mateo County - \$306,000]

3 **Resolution approving and authorizing the terms and conditions and authorizing the**  
4 **Director of Property and/or the General Manager of the San Francisco Public Utilities**  
5 **Commission to execute a Purchase and Sale Agreement and Easement Deeds with Bay**  
6 **Area Rapid Transit District for the acquisition of a 14,619-square-foot permanent**  
7 **access easement and a 2,153-square-foot temporary construction easement for**  
8 **\$306,000 on and across portions of San Mateo County Assessor's Parcel No. 093-330-**  
9 **120, pursuant to Charter, Section 9.118; adopting findings that the conveyance is**  
10 **consistent with the General Plan, and the eight priority policies of Planning Code,**  
11 **Section 101.1; and adopting a finding that the Purchase and Sale Agreement furthers a**  
12 **proper public purpose sufficient to meet Administrative Code, Section 23.30, market**  
13 **value requirements.**

14  
15 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) has developed  
16 and approved Project No. CUW30103, Regional Groundwater Storage and Recovery Project  
17 (Project), a water infrastructure project included as part of the Water System Improvement  
18 Program (WSIP), with the primary purpose of providing additional dry-year regional water  
19 supply capacity; and

20 WHEREAS, The Project includes the construction of groundwater wells and well  
21 stations to be connected to the SFPUC transmission system and the systems of three  
22 wholesale customers on the Upper Peninsula, including one groundwater well on certain  
23 SFPUC parcels known internally as MUNI ROW Parcels 2 and 3, located behind and adjacent  
24 to 1600 El Camino Real in South San Francisco, California (the Groundwater Well Site); and  
25

1 WHEREAS, The Groundwater Well Site has no practical vehicular access for the large  
2 bi-weekly deliveries of chemicals and other equipment and materials necessary to operate  
3 and maintain a groundwater well for the production of potable water; and

4 WHEREAS, The Project requires that the City and County of San Francisco (City)  
5 acquire one 14,619-square-foot permanent access easement and one 2,153-square-foot  
6 temporary construction easement (together, the Easements) on and across portions of that  
7 real property owned by Bay Area Rapid Transit District (BART), known as San Mateo County  
8 Assessor's Parcel No. 093-330-120 (Property); and

9 WHEREAS, BART has agreed to sell the Easements to City and both parties desire to  
10 enter into a Purchase and Sale Agreement; and

11 WHEREAS, The SFPUC, through consultation with the Office of the City Attorney, has  
12 negotiated with BART the proposed terms and conditions of City's acquisition of the  
13 Easements for a purchase price of \$306,000, as set forth in the form of an Agreement for  
14 Purchase and Sale of Real Estate (Agreement) and Easement Deeds to convey the  
15 Easements (Easement Deeds); and

16 WHEREAS, On August 7, 2014, the San Francisco Planning Commission 1) certified  
17 by Motion No. M-19209 the Final Environmental Impact Report (FEIR) for the Project (Case  
18 No. 2008.1396E) prepared pursuant to the California Environmental Quality Act (CEQA), and  
19 2) adopted findings under CEQA, including the adoption of a Mitigation Monitoring and  
20 Reporting Program (MMRP) and a statement of overriding considerations (CEQA Findings) by  
21 Motion No. 19210; and

22 WHEREAS, On August 12, 2014, by SFPUC Resolution No. 14-0127, the SFPUC  
23 adopted CEQA Findings and the MMRP as required by CEQA; and

24 WHEREAS, On October 28, 2014, the Board of Supervisors approved Resolution No.  
25 400-14, which included the adoption of the CEQA Findings and the adoption of the San

1 Francisco Planning Commission's General Plan Findings for the Project; a copy of which is on  
2 file with the Clerk of Board of Supervisors under File No 140945, which is incorporated herein  
3 by this reference; and

4 WHEREAS, On March 17, 2016, the San Francisco Planning Commission issued a  
5 Minor Project Modification (MPM) that describes the additional access across the Property  
6 required to reach the Groundwater Well Site that is the subject of the Agreement and  
7 Easement Deeds and determines that no supplemental environmental review was needed  
8 beyond the MPM; and

9 WHEREAS, On October 12, 2022, through Case No. 2008.1396GPR-02, the San  
10 Francisco Planning Department found that the proposed purchase of the Easements is  
11 consistent with the eight priority policies of Planning Code, Section 101.1, and is in conformity  
12 with the San Francisco General Plan (General Plan Findings); and

13 WHEREAS, On June 28, 2022, by SFPUC Resolution No. 22-0122, the SFPUC found  
14 that the FEIR, MMRP, and MPM were adequate for its use as the decision-making body for  
15 the Project and incorporated the CEQA findings contained in Resolution No. 14-0127 by  
16 reference; and

17 WHEREAS, On June 28, 2022, by that same SFPUC Resolution No. 22-0122, the  
18 SFPUC authorized the Director of Property and/or the General Manager of the SFPUC to  
19 execute the Agreement and Easement Deeds with BART, subject to the approval of the Board  
20 of Supervisors; and

21 WHEREAS, The Agreement is effective on the date on which the Agreement is  
22 executed by both parties; and

23 WHEREAS, BART obtained its own independent appraisal report as is afforded under  
24 California Government Code of Civil Procedure Section 1263.025 and the proposed purchase  
25 price payable under the Agreement is a negotiated settlement between BART and City and

1 therefore requires a Board of Supervisors finding that the Agreement furthers a proper public  
2 purpose sufficient to meet the requirements of San Francisco Administrative Code Section  
3 23.30, market value requirements; and

4 WHEREAS, The Project files, including SFPUC Resolution Nos. 08-200, 14-0127, and  
5 20-0122 and San Francisco Planning Department File No. 2008.1396E have been made  
6 available for review by the Board of Supervisors and the public, and those files are considered  
7 part of record before this Board; and

8 WHEREAS, The Board of Supervisors has reviewed and considered the information  
9 contained in the FEIR, MPM, and the CEQA Findings, including all written and oral  
10 information provided by the Planning Department, the public, relevant public agencies, the  
11 SFPUC and other experts and the administrative files for the Project; now, therefore, be it

12 RESOLVED, The Board of Supervisors, having reviewed and considered the FEIR and  
13 record as a whole, finds that the proposed Agreement and Easement Deeds are within the  
14 scope of the Project analyzed in the FEIR and previously approved by the San Francisco  
15 Planning Commission, the SFPUC, and the Board of Supervisors; and, be it

16 FURTHER RESOLVED, The Board of Supervisors finds that the FEIR is adequate for  
17 its use as the decision-making body for approval of the Agreement and Easement Deeds and  
18 hereby incorporates by reference the CEQA Findings made in Resolution No. 400-14,  
19 available in Board File No. 140945, concerning the Project; and, be it

20 FURTHER RESOLVED, The Board of Supervisors finds that since the FEIR was  
21 finalized, there have been no substantial project changes and no substantial changes in  
22 Project circumstances that would require major revisions to the FEIR due to the involvement  
23 of new significant environmental effects or an increase in the severity of previously identified  
24 significant impacts, and there is no new information of substantial importance that would  
25 change the conclusions set forth in the FEIR; and, be it

1 FURTHER RESOLVED, The Board of Supervisors hereby adopts the General Plan  
2 Findings made on October 12, 2022 in Case No. 2008.1396GPR-02 concerning the purchase  
3 of the Easements; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors hereby approves the terms and  
5 conditions, and authorizes the Director of Property and/or the General Manager of the SFPUC  
6 to execute the Agreement and Easement Deeds with BART for the acquisition of one 14,619-  
7 square-foot permanent access easement and one 2,153-square-foot temporary construction  
8 easement on and across portions of that real property owned by BART and known as San  
9 Mateo County Assessor's Parcel No. 093-330-120 for \$306,000 pursuant to Charter, Section  
10 9.118; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors confirms that the negotiated  
12 purchase price for the Easements furthers a proper public purpose sufficient to meet the  
13 requirements of San Francisco Administrative Code, Section 23.30, market value  
14 requirements; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors ratifies the Agreement and  
16 authorizes the Director of Property and/or the SFPUC's General Manager to enter into any  
17 additions, amendments, or other modifications to the Agreement (including, without limitation,  
18 the attached exhibits) that the Director of Property and/or the SFPUC's General Manager  
19 determine are in the best interest of the City, do not materially increase the obligations or  
20 liabilities of the City, and are necessary or advisable to complete the transaction contemplated  
21 in the Agreement and effectuate the purpose and intent of this resolution, such determination  
22 to be conclusively evidenced by the execution and delivery by the Director of Property and/or  
23 SFPUC's General Manager of the Agreement and any amendments thereto; and, be it

1           FURTHER RESOLVED, That within 30 days of the Agreement and Easement Deeds  
2 being fully executed, the General Manager of the SFPUC shall provide the final Agreement  
3 and Easement Deeds to the Clerk of the Board for inclusion in the official file.