

1 [Agreement to Purchase Easements in Connection with the New Irvington Tunnel Project in
2 Alameda County]

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4 **Resolution approving and authorizing an Agreement for Purchase and Sale of Real**
5 **Estate to acquire for \$57,500 a permanent well easement and a temporary**
6 **construction easement in Alameda County for the public purpose of constructing the**
7 **San Francisco Public Utilities Commission New Irvington Tunnel Project; adopting**
8 **findings under the California Environmental Quality Act ("CEQA"); adopting findings**
9 **that the purchase is consistent with the City's General Plan and Eight Priority**
10 **Policies of City Planning Code Section 101.1; and authorizing the Director of**
11 **Property to execute documents, make certain modifications and take certain actions**
12 **in furtherance of this resolution.**

13
14 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) plans to
15 construct Project CUW35901, the New Irvington Tunnel Project (the "Project"), under the
16 Water System Improvement Program (WSIP) for improvements to the regional water
17 supply system, a public use, and in connection therewith will acquire interests in certain
18 real property described herein; and

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

22 WHEREAS, The Project is an improvement facility project approved by the SFPUC as
23 part of the Water System Improvement Program ("WSIP"); and

1 WHEREAS, A Final Program Environmental Impact Report ("PEIR") was prepared for
2 the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No.
3 17734; and

4 WHEREAS, Thereafter the SFPUC approved the WSIP and adopted findings and a
5 Mitigation Monitoring and Reporting Program as required by the California Environmental
6 Quality Act ("CEQA") on October 30, 2008 by Resolution No. 08-0200; and

7 WHEREAS, an environmental impact report ("EIR") as required by CEQA was
8 prepared for the Project in Planning Department File No. 2005.0162E; and

9 WHEREAS, The Final EIR ("FEIR") for the Project was certified by the San
10 Francisco Planning Commission on November 9, 2009 by Motion No. 17972; and

11 WHEREAS, The FEIR prepared for the Project is tiered from the PEIR, as
12 authorized by and in accordance with CEQA and the CEQA Guidelines; and

13 WHEREAS, On November 9, 2009, the San Francisco Public Utilities Commission
14 (SFPUC), by Resolution No. 09-0190, a copy of which is included in Board of Supervisors
15 File No. _____ and which is incorporated herein by this reference: (1) approved
16 the Project; (2) adopted findings (CEQA Findings), including the statement of overriding
17 considerations, and a Mitigation Monitoring and Reporting Program ("MMRP") required by
18 CEQA; and (3) authorized the General Manager to seek the Board of Supervisors' approval
19 of and, if approved, to execute certain necessary agreements and deeds, which the
20 SFPUC staff will pursue and submit to the Board of Supervisors at a later date; and

21 WHEREAS, The Project files, including the FEIR, PEIR and SFPUC Resolution No.
22 09-0190 have been made available for review by the Board and the public, and those files
23 are considered part of the record before this Board; and

24 WHEREAS, The Board of Supervisors has reviewed and considered the information
25 and findings contained in the FEIR, PEIR and SFPUC Resolution No. 09-0190, and all

1 written and oral information provided by the Planning Department, the public, relevant
2 public agencies, SFPUC and other experts and the administrative files for the Project; and

3 WHEREAS, This Board, by Resolution No. 505-09 adopted on December 15, 2009,
4 a copy of which is on file with the Clerk of the Board of Supervisors in File No. 091326 and
5 which is incorporated herein by this reference and considered part of the record before this
6 Board, adopted findings under CEQA related to the Project, including the statement of
7 overriding considerations and the MMRP; and,

8 WHEREAS, A copy of the Agreement for Purchase and Sale of Real Estate (the
9 "Agreement") between the City, as Grantee, and David C.Y. Lo, as Grantor, is on file with
10 the Clerk of the Board of Supervisors under File No. _____; and,

11 WHEREAS, An independent MAI appraisal was prepared in May 2009 to determine
12 the value of the permanent well easement consisting of 391 square feet and the temporary
13 construction easement consisting of 1.92 acres with a duration of 51 months, which value
14 was \$50,800; and,

15 WHEREAS, The Grantor refused the \$50,800 offer but agreed to a negotiated
16 settlement figure of \$57,500 which the Director of Property and General Manager of the
17 PUC have determined to be reasonable, prudent and in the best interest of the public; and,

18 WHEREAS, The Director of Planning, by letter dated December 18, 2009, found that
19 the purchase of all the necessary property rights for the Project, is consistent with the City's
20 General Plan and with the Eight Priority Policies of City Planning Code Section 101.1,
21 which letter is on file with the Clerk of the Board of Supervisors under File No. _____,
22 and which letter is incorporated herein by this reference; now, therefore, be it

23 RESOLVED, The Board has reviewed and considered the FEIR and record as a whole,
24 finds that the FEIR is adequate for its use as the decision making body for the action taken
25

1 herein and hereby incorporates by reference the CEQA findings contained in Resolution No.
2 505-09; and be it

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

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

12 FURTHER RESOLVED, That the Board of Supervisors of the City and County of
13 San Francisco hereby finds that the Agreement is consistent with the General Plan and
14 with the Eight Priority Policies of city planning Code Section 101.1 for the same reasons as
15 set forth in the letter of the Director of Planning dated December 18, 2009, and hereby
16 incorporates such findings by references as though fully set forth in this resolution; and, be
17 it

18 FURTHER RESOLVED, That in accordance with the recommendations of the
19 Public Utilities Commission and the Director of Property, the Board of Supervisors hereby
20 approves the Agreement and the transaction contemplated thereby in substantially the form
21 of such Agreement presented to this Board; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
23 Property to enter into any additions, amendments or other modifications to the Agreement
24 (including, without limitation, the attached exhibits) that the Director of Property determines
25 are in the best interest of the City, that do not increase the cost for the Agreement or

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

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

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18 RECOMMENDED: \$57,500 Available

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21 _____
Amy L. Brown
Director of Property

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Controller

24 Appropriation: Index Code 735913

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