

1 [Purchase Agreement - Permanent Access Road Easement - Stanislaus County - \$13,000]

2  
3 **Resolution (1) approving and authorizing an agreement for the purchase of a**  
4 **permanent access road easement totaling 2.16 acres over portions of Assessor's**  
5 **Parcel Numbers 016-002-017, 016-002-018 and 016-002-44 located in Stanislaus**  
6 **County, required for the San Joaquin Pipeline System Project No. CUW37301 (the**  
7 **“Project”) for a purchase price of \$13,000; (2) adopting findings under the California**  
8 **Environmental Quality Act (CEQA); (3) adopting findings that the conveyance is**  
9 **consistent with the City’s General Plan and Eight Priority Policies of City Planning**  
10 **Code Section 101.1; and (4) authorizing the Director of Property to execute**  
11 **documents, make certain modifications and take certain actions in furtherance of**  
12 **this resolution.**

13  
14 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) has developed  
15 a project known as the San Joaquin Pipeline System Project, (also commonly referred to as  
16 the SJPL System Project, Project No.CUW37301, and herein as the "Project"), a water  
17 infrastructure project included as part of the Water System Improvement Program (WSIP).  
18 The Project is located in Tuolumne, Stanislaus, and San Joaquin Counties, beginning at  
19 the Oakdale Portal in Tuolumne County, and ending at the Tesla Portal in San Joaquin  
20 County. The Project includes, among other related features, the construction of two new  
21 facility crossovers (Emery and Pelican), two new throttling stations (MP 50.57 Northeast of  
22 Willms Road and MP 55.32), Oakdale Portal improvements including a new valve house,  
23 upgrading the discharge valves at Cashman Creek and a new discharge valve at the  
24 California Aqueduct, construction of a fourth pipeline segment (Eastern Segment  
25 approximately 6.5 miles from Oakdale Portal (MP 49.84) to near Fogarty Road (MP 56.50)

1 and a tie-in vault), construction of a fourth pipeline segment (Western Segment  
2 approximately 11 miles from west of the San Joaquin River to Tesla Portal), a new truss  
3 bridge aerial structure to carry SJPL No. 4 over the California Aqueduct, and a discharge  
4 structure at the Pelican Crossover involving intermittent drainage to the San Joaquin River,  
5 and discharge of water to U.S. Fish and Wildlife Service San Joaquin River National  
6 Wildlife Refuge, to irrigate a managed wetland area; and

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

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

12 WHEREAS, A Final Program Environmental Impact Report ("PEIR") was prepared for  
13 the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No.  
14 17734; and

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

18 WHEREAS, an environmental impact report ("EIR") as required by CEQA was  
19 prepared for the Project in Planning Department File No. 2007.01 18E; and

20 WHEREAS, The Final EIR ("FEIR") for the Project was certified by the San  
21 Francisco Planning Commission on July 9, 2009 by Motion No. 17917; and

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

24 WHEREAS, On July 14, 2009, the San Francisco Public Utilities Commission  
25 (SFPUC), by Resolution No. 09-0119, a copy of which is included in Board of Supervisors

1 File No. 090980 and which is incorporated herein by this reference: (1) approved the  
2 Project; (2) adopted findings (CEQA Findings), including the statement of overriding  
3 considerations, and a Mitigation Monitoring and Reporting Program ("MMRP") required by  
4 CEQA; and (3) authorized the General Manager to seek the Board of Supervisors' approval  
5 of and, if approved, to execute certain necessary agreements and deeds, which the  
6 SFPUC staff will pursue and submit to the Board of Supervisors at a later date; and

7 WHEREAS, The Project files, including the FEIR, PEIR and SFPUC Resolution No.  
8 09-0119 have been made available for review by the Board and the public, and those files  
9 are considered part of the record before this Board; and

10 WHEREAS, The Board of Supervisors has reviewed and considered the information  
11 and findings contained in the FEIR, PEIR and SFPUC Resolution No. 09-0119, and all  
12 written and oral information provided by the Planning Department, the public, relevant  
13 public agencies, SFPUC and other experts and the administrative files for the Project; and

14 WHEREAS, This Board, by Resolution No. 369-09 adopted on September 22, 2009,  
15 a copy of which is on file with the Clerk of the Board of Supervisors in File No. 090980 and  
16 which is incorporated herein by this reference and considered part of the record before this  
17 Board, adopted findings under CEQA related to the Project, including the statement of  
18 overriding considerations and the MMRP; and

19 WHEREAS, A copy of the proposed Agreement For Purchase and Sale of Real  
20 Estate (the "Purchase Agreement") between the City, as buyer, and James W. Lopes, as  
21 Seller, is on file with the Clerk of the Board of Supervisors under File No. \_\_\_\_\_,  
22 which is incorporated herein by this reference and is considered part of the record before  
23 this Board; and,

24  
25

1           WHEREAS, The Director of Property has concurred with the PUC General  
2 Manager's determination that the purchase price reflects a reasonable settlement price for  
3 the road easement and,

4           WHEREAS, The Director of Planning, by letter dated June 29, 2009, found that the  
5 purchase of all the necessary property rights for the Project, is consistent with the City's  
6 General Plan and with the Eight Priority Policies of City Planning Code Section 101.1,  
7 which letter is on file with the Clerk of the Board of Supervisors under File No. \_\_\_\_\_,  
8 and which letter is incorporated herein by this reference; now, therefore, be it

9           RESOLVED, The Board has reviewed and considered the FEIR and record as a whole,  
10 finds that the FEIR is adequate for its use as the decision making body for the action taken  
11 herein and hereby incorporates by reference the CEQA findings contained in Resolution No.  
12 369-09; and be it

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

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

22           FURTHER RESOLVED, That the Board of Supervisors of the City and County of  
23 San Francisco hereby finds that the Purchase Agreement is consistent with the General  
24 Plan and with the Eight Priority Policies of city planning Code Section 101.1 for the same  
25 reasons as set forth in the letter of the Director of Planning dated June 29, 2009, and

1 hereby incorporates such findings by references as though fully set forth in this resolution;  
2 and, be it

3 FURTHER RESOLVED, That in accordance with the recommendations of the Public  
4 Utilities Commission and the Director of Property, the Board of Supervisors hereby  
5 approves the Purchase Agreement and the transaction contemplated thereby in  
6 substantially the form of such agreement presented to this Board; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of  
8 Property to enter into any additions, amendments or other modifications to the Purchase  
9 Agreement (including, without limitation, the attached exhibits) that the Director of Property  
10 determines are in the best interest of the City, that do not increase the purchase price for  
11 the road easement or otherwise materially increase the obligations or liabilities of the City,  
12 and are necessary or advisable to complete the transaction contemplated in the Purchase  
13 Agreement and effectuate the purpose and intent of this resolution, such determination to  
14 be conclusively evidenced by the execution and delivery by the Director of Property of the  
15 Purchase Agreement and any amendments thereto; and, be it

16 FURTHER RESOLVED, That the Director of Property is hereby authorized and  
17 urged, in the name and on behalf of the City and County, to accept the deed to the road  
18 easement from the Seller upon the closing in accordance with the terms and conditions of  
19 the Purchase Agreement, and to take any and all steps (including, but not limited to, the  
20 execution and delivery of any and all certificates, agreements, notices, consents, escrow  
21 instructions, closing documents and other instruments or documents) as the Director of  
22 Property deems necessary or appropriate in order to consummate the conveyance of the  
23 road easement pursuant to the Purchase Agreement, or to otherwise effectuate the  
24 purpose and intent of this resolution, such determination to be conclusively evidenced by  
25 the execution and delivery by the Director of Property of any such documents; and, be it

1           FURTHER RESOLVED, All actions heretofore taken by the Director of Property with  
2 respect to the matters addressed in this Resolution are hereby approved, confirmed and  
3 ratified.

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

RECOMMENDED:

Funds Available:

\_\_\_\_\_  
Amy L. Brown  
Director of Property

\_\_\_\_\_  
Controller

Appropriation: Index Code 737312