[Funding Agreement to Fund Acquisition of Nolan Ranch Conservation Easement and Endowment Agreement to Fund Compliance Monitoring of the Conservation Easement]

Resolution: 1) authorizing pursuant to Charter Section 9.118(b) (i) a Funding Agreement with The Nature Conservancy and Santa Clara County under which the City would contribute one third of the funds, up to $900,000, for Santa Clara County to acquire the Nolan Ranch and create a conservation easement of which the City would be a third party beneficiary, and (ii) an Endowment Agreement under which the City would provide a permanent endowment of $125,000 to fund The Nature Conservancy’s monitoring of compliance with the conservation easement; and 2) authorizing the General Manager of the Public Utilities Commission to execute documents, make certain modifications, and take certain actions in furtherance of this Resolution.

WHEREAS, The San Francisco Public Utilities Commission (SFPUC) initiated the Watershed and Environmental Improvement Program (WEIP) in 2006 to provide $50 million over 10 years for the SFPUC to manage, protect and restore environmental resources critical to or affected by SFPUC operations; and

WHEREAS, Santa Clara County (County) is a political subdivision of the State of California; and

WHEREAS, The Nature Conservancy (Conservancy) is a District of Columbia non-profit organization formed to conserve the lands and waters on which all life depends; and

WHEREAS, The Conservancy has acquired an option (Option) to purchase the 1,157 acre Nolan Ranch, also known as Sulphur Creek Ranch (Land) located in the upper Alameda Creek Watershed in Santa Clara County for a purchase price of $2,600,000 (Purchase Price); and

WHEREAS, The Conservancy proposes to assign the Option to the County, and the
Conservancy and the County propose to work cooperatively with the City and County of San Francisco (City), acting through the SFPUC, to jointly fund the County’s acquisition of the Land for the purposes of (i) granting a conservation easement to Conservancy to protect the watershed and other natural resources of such Land in perpetuity (Conservation Easement), and (ii) preserving the Land in its current open space condition to give the County the opportunity to conduct the necessary planning process to develop a proposed management plan for managing the Land as a park for low impact public recreation and to conduct the appropriate environmental review of the plan; and

WHEREAS, The County’s appraiser has provided a draft appraisal report with comparable sales data reflecting that the fair market value of the Land exceeds the Purchase Price, which report has been reviewed and approved by the Acting Director of Property, and the appraiser has committed to furnish a final appraisal report (Appraisal Report) by June 15, 2012, which SFPUC staff will submit to the Director of Property for review and approval; and

WHEREAS, SFPUC staff have negotiated proposed terms and conditions of a Funding and Acquisition Agreement which is part of the record before this Board (Funding Agreement), pursuant to which the SFPUC would provide funding to cover one third the Purchase Price of the Land and certain other acquisition costs as described in the agreement, for a total amount not to exceed $900,000 conditioned upon the County granting the Conservation Easement to the Conservancy through the same escrow in which the County acquires the Land; and

WHEREAS, SFPUC staff have negotiated proposed terms and conditions of an Endowment Agreement which is part of the record before this Board, pursuant to which the SFPUC would provide $125,000 for a permanent endowment to fund compliance monitoring for the Conservation Easement; and
WHEREAS, SFPUC staff have negotiated proposed terms and conditions of a Grant Deed of Conservation Easement (Conservation Easement) which is part of the record before this Board, pursuant to which scenic, aesthetic, natural, hydrologic, open space, ecological, and scientific values of the Land, including watershed and water quality protection, would be protected in perpetuity, the County would be permitted to use the Land for low-impact public recreation purposes consistent with such conservation purposes, and the City, acting through the SFPUC, would be a third party beneficiary with rights to enforce certain terms of the Conservation Easement; and

WHEREAS, Funds for SFPUC’s obligations under the Funding Agreement and Endowment Agreement will be available at the time of approval of the agreements from Project CUW394. Water System Improvement Program – Watershed and Environmental Improvement Program (Measure A Bond funds); and

WHEREAS, on April 4, 2012, the acquisition of the Land and creation of the conservation easement were determined to be exempt from the California Environmental Quality Act (CEQA) as a Class 25 (Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources) categorical exemption under CEQA Guidelines Section 15325 as described in the determination which is part of the record before this Board;

WHEREAS, on May 22, 2012, the SFPUC, by Resolution No. 12-0088, a copy of which is part of the record before this Board, authorized the General Manager of the SFPUC or his designee, following Board of Supervisors approval of the Funding Agreement and Endowment Agreement, to execute such agreements with such modifications that, in the judgment of the General Manager and/or his designee, in consultation with the City Attorney, are in the best interest of the City, do not materially increase the obligations or liabilities or material diminish the benefits to the City, are necessary or advisable to effectuate the purposes and intent of
RESOLVED, That, provided the SFPUC receives a final Appraisal Report acceptable to the City’s Director of Property, reflecting that the fair market value of the Land is not less than the Purchase Price, the Board of Supervisors hereby authorizes the General Manager of the SFPUC or his designee to execute the Funding Agreement and the Endowment Agreement; and be it

FURTHER RESOLVED, That this Board of Supervisors authorizes staff to proceed with actions necessary to implement the Funding Agreement and Endowment Agreement following execution, and to implement City’s third party beneficiary rights once the Conservation Easement has been granted, and ratifies, approves and authorizes all actions heretofore taken by any City official in connection with such agreements; and be it

FURTHER RESOLVED, That this Board of Supervisors hereby authorizes the General Manager of the SFPUC and/or his designee to enter into any amendments or modifications to the Funding Agreement and Endowment Agreement, including without limitation, the exhibits, that the General Manager determines, in consultation with the City Attorney, are in the best interest of the City, do not materially increase the obligations or liabilities of the City or materially diminish the benefits to the City, are necessary or advisable to effectuate the purposes and intent of the Conservation Easement or this Resolution, and are in compliance with all applicable laws, including the City Charter.

RECOMMENDED:          FUNDS AVAILABLE:

Ed Harrington
Controller
General Manager
Appropriation : Index Code 739409
San Francisco Public Utilities Commission
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