

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 14-0127

WHEREAS, San Francisco Public Utilities Commission (SFPUC) staff have developed a project description under the Water System Improvement Program (WSIP) for the improvements to the regional water supply system, otherwise known as Project No. CUW30103, Regional Groundwater Storage and Recovery; and

WHEREAS, The primary objective of the Project is to provide an additional dry-year regional water supply. Specific objectives of the Project are to:

- Conjunctively manage the South Westside Groundwater Basin through the coordinated use of SFPUC surface water and groundwater pumped by the Daly City, San Bruno, and California Water Service Company ("Participating Pumpers");
- Provide supplemental SFPUC surface water to the Participating Pumpers in normal and wet years, resulting in a corresponding reduction of groundwater pumping, which then allows for in-lieu recharge of the South Westside Groundwater Basin;
- Increase the dry-year and emergency pumping capacity of the South Westside Groundwater Basin by up to an average annual volume of 7.2 mgd; and
- Provide a new dry-year groundwater supply for SFPUC customers and increase water supply reliability during the 8.5-year design drought cycle.

WHEREAS, On August 7, 2014, the Planning Commission reviewed and considered the Final Environmental Impact Report (FEIR) in Planning Department File No. 2008.1396E, consisting of the Draft Environmental Impact Report (EIR), the Comments and Responses document and found that the contents of said report and the procedures through which the FEIR was prepared, publicized and reviewed complied with the provisions of the California Environmental Quality Act (CEQA), the CEQA Guidelines and Chapter 31 of the San Francisco Administrative Code and found further that the FEIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Comments and Responses document contains no significant revisions to the Draft EIR, and certified the completion of said FEIR in compliance with CEQA and the CEQA Guidelines in its Motion Nos. 19209; 192010; 192011; and

WHEREAS, This Commission has reviewed and considered the information contained in the FEIR, all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC and other experts and the administrative files for the Project and the EIR; and

WHEREAS, The Project and FEIR files have been made available for review by the SFPUC and the public in File No. 2008.1396E, at 1650 Mission Street, Fourth Floor, San Francisco, California; and those files are part of the record before this Commission; and

WHEREAS, SFPUC staff prepared proposed findings, as required by CEQA, (CEQA Findings) in Attachment A to this Resolution and a proposed Mitigation, Monitoring and Reporting Program (MMRP) in Attachment B to this Resolution, which material was made available to the public and the Commission for the Commission's review, consideration and action; and

WHEREAS, The Project is a capital improvement project approved by this Commission as part of the WSIP; and

WHEREAS, A Final Programmatic EIR (PEIR) was prepared for the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No. 17734; and

WHEREAS, Thereafter, the SFPUC approved the WSIP and adopted findings and a MMRP as required by CEQA on October 30, 2008 by Resolution No. 08-0200; and

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

WHEREAS, The PEIR has been made available for review by the SFPUC and the public, and is part of the record before this Commission; and

WHEREAS, The SFPUC staff will comply with Government Code Section 7260 et seq. statutory procedures for possible acquisition of interests (temporary or permanent) in the following real property in San Mateo County (1) Assessor's Parcel # 002-410-050 in Daly City, owned by Lake Merced Golf and Country Club, (2) Assessor's Parcels # 002-072-240, -250 and 002-201-650 in Daly City, owned by John Daly Boulevard Associates/West Lake Associates, (3) Assessor's Parcels # 006-111-540 and 006-111-460 in Daly City, owned by Jefferson School District, (4) Assessor's Parcel # 008-421-120 in Colma, owned by TSE Serramonte, (5) Assessor's Parcel's # (unknown) for property owned by BART/SAMTRANS in South San Francisco, (6) Assessor's Parcel # 010-212-100 in South San Francisco, owned by Costco Wholesale Corporation, (7) Assessor's Parcel # 010-292-210 in South San Francisco, owned by Kaiser Foundation Hospitals, (8) Assessor's Parcel # 093-220-010 in Millbrae, leased by OSH/Lowes Corporation, and (9) Assessor's Parcel # 014-320-010 in San Bruno, owned by the U.S. Department of Veterans Affairs. The total combined purchase price for the acquisition of these property interests is estimated to not exceed \$1,500,000; and

WHEREAS, The Project includes work located on the property of the City of South San Francisco, Town of Colma, Lake Merced Golf Club, Jefferson Elementary School District and the Participating Pumpers, and SFPUC staff may seek to enter into Memoranda of Agreement ("MOAs") with these entities, addressing such matters as (a) SFPUC's commitments to restore or replace, pursuant to agreed specifications, certain improvements owned by the respective entities, (b) cooperative procedures and fees relating to local permits, if any, inspections, and communications to the public concerning Project construction, (c) the form of necessary encroachment permits or other property agreements for Project construction, and (d) the parties' respective indemnification and insurance obligations; and

WHEREAS, The Project will require Board of Supervisors approval of Mitigation Agreements with irrigators overlying the South Westside Basin under Charter section 9.118; and

WHEREAS, The Project requires the General Manager to negotiate and execute an Operating Agreement with the Participating Pumpers, and related agreements to carry out the Operating Agreement. The Operating Agreement to be negotiated and executed is substantially in the form attached to this Resolution as Attachment C; and

WHEREAS, The Project MMRP requires the SFPUC to negotiate and execute Mitigation Agreements with Cypress Lawn Memorial Park Cemetery; Eternal Home Cemetery; Hills of Eternity/Home of Peace/Salem Cemeteries; Holy Cross Catholic Cemetery; Italian Cemetery; Olivet Cemetery; and Woodlawn Cemetery in Colma, and the California Golf Club in South San Francisco. The Mitigation Agreements to be negotiated and executed are substantially in the form attached to this Resolution as Attachment D; and

WHEREAS, The Project MMRP requires the SFPUC to 1) negotiate and execute an amendment to the 2009 Water Supply Agreement (WSA) with the SFPUC's wholesale water customers regarding delivery of replacement water from the Regional Water System as an interim mitigation action to irrigators overlying the South Westside Basin; and 2) negotiate and execute a wheeling agreement with California Water Service Company for delivery of replacement water to irrigators overlying the South Westside Basin as an interim mitigation action; and

WHEREAS, Implementation of the Project mitigation measures will involve consultation with, or required approvals by, state regulatory agencies, including but not limited to the following: California Department of Health, San Francisco Bay Regional Water Quality Control Board, State Water Resources Control Board, Bay Area Air Quality Management District, State Historic Preservation Officer, and California Department of Fish and Game; and

WHEREAS, The Project may require the SFPUC General Manager to apply for and execute various necessary permits, encroachment permits, or other approvals with, including but not limited to, the California Department of Transportation; County of San Mateo; Town of Colma, and cities of Daly City, Millbrae, San Bruno, and South San Francisco, and those permits shall be consistent with SFPUC existing fee or easement interests, where applicable, and will include terms and conditions including, but not limited to, maintenance, repair and relocation of improvements and possibly indemnity obligations; now, therefore, be it

RESOLVED, This Commission has reviewed and considered the FEIR, finds that the FEIR is adequate for its use as the decision-making body for the actions taken herein, and hereby adopts the CEQA Findings, including the Statement of Overriding Considerations, attached hereto as Attachment A and incorporated herein as part of this Resolution by this reference thereto, and adopts the MMRP attached to this Resolution as Attachment B and incorporated herein as part of this Resolution by this reference thereto, and authorizes a request to the Board of Supervisors to adopt the same CEQA Findings, Statement of Overriding Considerations and MMRP; and be it

FURTHER RESOLVED, That this Commission hereby approves Project No. CUW30103, Regional Groundwater Storage and Recovery Project and authorizes staff to proceed with actions necessary to implement the Project consistent with this Resolution, including advertising for construction bids, provided, however, that staff will return to seek Commission approval for award of the construction contract; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager and/or the Director of Real Estate to undertake the process, in compliance with Government Code Section 7260 et seq., with the San Francisco Charter and all applicable laws, for possible acquisition of interests (temporary or permanent) in the following real property in San Mateo County (1) Assessor's Parcel # 002-410-050 in Daly City, owned by Lake Merced Golf and Country Club, (2) Assessor's Parcels # 002-072-240, -250 and 002-201-650 in Daly City, owned by West Lake Associates/John Daly Blvd. Assoc, (3) Assessor's Parcels # 006-111-540 and 006-111-460 in Daly City, owned by Jefferson Elementary School District, (4) Assessor's Parcel # 008-421-120 in Colma, owned by TSE Serramonte, L.P. and leased by Kohl's Department Store, (5) Assessor's Parcels (unknown) for property owned by BART/SAMTRANS in South San Francisco, (6) Assessor's Parcel # 010-212-100 in South San Francisco, owned by Costco Wholesale Corporation, (7) Assessor's Parcel # 093-331-080 in South San Francisco, owned by the City of South San Francisco, (8) Assessor's Parcel # 010-292-210 in South San Francisco, owned by Kaiser Foundation Hospitals, (9) Assessor's Parcel # 093-220-010 in Millbrae, leased by OSH/Lowes Corporation, and (10) Assessor's Parcel # 014-320-010 in San Bruno, owned by the U.S.A., and to seek Board of Supervisors' approval if necessary, and provided that any necessary Board approval has been obtained, to accept and execute final agreements, and any other related documents necessary to consummate the transactions contemplated therein, in such form, approved by the City Attorney; and be it

FURTHER RESOLVED, The General Manager will confer with the Commission during the negotiation process on real estate agreements as necessary, and report to the Commission on all agreements submitted to the Board of Supervisors for approval; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the General Manager to negotiate and execute Memoranda of Agreement, if necessary, to perform work on the property of the City of South San Francisco, Town of Colma, Lake Merced Golf Club, Jefferson Elementary School District and the Participating Pumpers (collectively the "Project MOAs") in a form that the General Manager determines is in the public interest and is acceptable, necessary, and advisable to effectuate the purposes and intent of this Resolution, and in compliance with the Charter and all applicable laws, and approved as to form by the City Attorney. The Project MOAs may address such matters as (a) SFPUC's commitments to restore or replace, pursuant to agreed specifications, certain improvements owned by the respective local jurisdictions, (b) cooperative procedures and fees relating to local permits, inspections, and communications to the public concerning Project construction, (c) the form of necessary encroachment permits or other property licenses required to permit Project construction, and (d) the parties' respective indemnification and insurance obligations, subject to the San Francisco Risk Manager's approval; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager to seek Board of Supervisors approval for the Controller's release of reserve for the Project; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager to negotiate and execute an Operating Agreement with the City of Daly City, the City of San Bruno, and California Water Service Company, substantially in the form attached to this Resolution as Attachment C, along with more detailed site specific agreements for the operation of Project wells by the Participating Pumpers and the shared use of facilities owned by the Participating Pumpers for water treatment and distribution, as contemplated by the Operating Agreement; and be it

FURTHER RESOLVED, That this Commission hereby authorizes the SFPUC General Manager to negotiate and execute Mitigation Agreements with Cypress Lawn Memorial Park Cemetery; Eternal Home Cemetery; Hills of Eternity/Home of Peace/Salem Cemeteries; Holy Cross Catholic Cemetery; Italian Cemetery; Olivet Cemetery; and Woodlawn Cemetery in Colma, and the California Golf Club in South San Francisco substantially in the forms attached to this Resolution as Attachment D, and to seek Board of Supervisors approval of the Mitigation Agreements under Charter Section 9.118, along with the approval of the settlement of any CEQA appeals filed by these irrigators based on the terms of the Mitigation Agreements; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to consult with, or apply for, and, if necessary, seek Board of Supervisors' approval, and if approved, to accept and execute permits or required approvals by state regulatory agencies, including but not limited to, the California Department of Public Health, the Regional Water Quality Control Board, the State Water Resources Control Board, the Bay Area Air Quality Management District, the State Historic Preservation Officer, and the California Department of Fish and Wildlife, including terms and conditions that are within the lawful authority of the agency to impose, in the public interest, and, in the judgment of the General Manager, in consultation with the City Attorney, are reasonable and appropriate for the scope and duration of the requested permit or approval, as necessary for the Project; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to apply for and execute various necessary permits and encroachment permits or other approvals with, including but not limited to, the California Department of Transportation; County of San Mateo; Town of Colma; and the cities of Daly City, Millbrae, San Bruno, and South San Francisco, which permits or approvals shall be consistent with SFPUC's existing fee or easement interests, where applicable. To the extent that the terms and conditions of the permits will require SFPUC to indemnify the respective jurisdictions, those indemnity obligations are subject to review and approval by the San Francisco Risk Manager. The General Manager is authorized to agree to such terms and conditions, including but not limited to those relating to maintenance, repair and relocation of improvements, that are in the public interest, and in the judgment of the General Manager, in consultation with the City Attorney, are reasonable and appropriate for the scope and duration of the requested use as necessary for the Project; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to work with the Director of Real Estate to seek Board approval if necessary, and provided any necessary Board approval is obtained, to accept and execute the real property agreements authorized herein; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to enter into any subsequent additions, amendments or other modifications to the permits, licenses, encroachment removal agreements, leases, easements, other Use Instruments or real property agreements, Operating Agreements, and Mitigation Agreements or amendments thereto, as described herein, that the General Manager, in consultation with the Real Estate Services director and the City Attorney, determines are in the best interests of the SFPUC and the City, do not materially decrease the benefits to the SFPUC or the City, and do not materially increase the obligations or liabilities of the SFPUC or the City, such determination to be conclusively evidenced by the execution and delivery of any such additions, amendments, or other modifications.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of August 12, 2014.



Secretary, Public Utilities Commission