

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 13-0161

WHEREAS, San Francisco Public Utilities Commission (SFPUC) staff 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. CUW36702, Peninsula Pipelines Upgrade Project (Project) in northern San Mateo County, California; and

WHEREAS, The Project is an improvement facility project approved by the SFPUC as part of the WSIP; and

WHEREAS, A Final Program Environmental Impact Report (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 Mitigation Monitoring and Reporting Program (MMRP) as required by California Environmental Quality Act (CEQA) on October 30, 2008 by Resolution No. 08-200; 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;

WHEREAS, SFPUC staff has determined that the Project construction, implementation, operation or maintenance will possibly require the SFPUC to acquire, pursuant to Government Code Section 7260 *et seq.* statutory procedures, temporary or permanent interests in real property in: (1) Assessor's Parcel #019-170-020 owned by San Mateo Union High School District; (2) Assessor's Parcel #019-170-130 owned by Ng Cheuk Family Trust; (3) Assessor's Parcel #019-170-150 owned by Wong Thomas Wai-Kun Trust; (4) Multiple Assessor's Parcel Numbers owned by Shelter Creek Condominium Owner's Association in San Mateo County; (5) Assessor's Parcel #'s 021-490-050, 021-030-040, 021-030-020, 021-233-360, 021-490-040 owned by the City of Millbrae; (6) Assessor's Parcel #021-470-030 owned by Green Hills Country Club; (7) Assessor's Parcel #021-084-620 owned by Lomita Hills LLC; (8) Assessor's Parcel #008-421-120 owned by Kohl's Department Stores Lessee; (9) Assessor's Parcel #010-400-110 owned by Trans-Global LLC; and (10) Assessor's Parcel #010-400-240 owned by El Camino Enterprise LLC; and

WHEREAS, The Project requires that the General Manager be authorized to obtain, consistent with SFPUC existing fee or easement interests, where applicable, any necessary permits, consents from, and/or other agreements with, Caltrans, City of Millbrae, City of San Bruno, City of South San Francisco, San Mateo County, San Mateo Union High School District, Shelter Creek Condo Association, and Green Hills Country Club, relating to proposed Project construction activities and the relocation of existing utilities owned or operated by these entities within or adjacent to the Project area. To the extent that the terms and conditions of the required permits, instruments, or agreements require SFPUC to indemnify other parties, those indemnity obligations are subject to review and approval by the San Francisco Risk Manager. The Commission Resolution authorizes the General Manager, in consultation with the City Attorney,

to agree to other such terms and conditions (e.g. maintenance, repair, and responsibility for relocation of utilities or improvements) that are in the public interest, are consistent with the SFPUC's existing rights, and in the judgment of the General Manager, are reasonable and appropriate for the scope and duration of the requested use; and

WHEREAS, The Project requires that the General Manager or his designee be authorized , to (i) exercise any City or SFPUC right under any deed, easement, lease, permit, or license as necessary or advisable in connection with the Project, and (ii) negotiate and execute with owners or occupiers of property interests or utility facilities or improvements, on, along, over, under, adjacent to, or in the vicinity of the SFPUC's right-of-way, new or amended easements, leases, permits, licenses, encroachment removal, or other project related agreements (each, a Use Instrument) with respect to uses and structures, fences, and other above-ground or subterranean improvements. The General Manager's authority so granted will include the authority, if necessary for the Project, to enter into, amend, or exercise rights under existing or new Use Instruments with any owner or occupier of property on, along, over, under, adjacent to, or in the vicinity of the SFPUC right-of-way, including Use Instruments required to accommodate project construction activities or schedule, or to implement Project mitigation measures, but excluding the authority to dispose of any SFPUC real property interest. Any such new or amended Use Instrument will be 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 Commission Resolution, and in compliance with the Charter and all applicable laws, and approved as to form by the City Attorney;

WHEREAS, The objectives of the Project are to upgrade segments of the San Andreas Pipeline No. 2 (SAPL2), San Andreas Pipeline No. 3 (SAPL3), and San Andreas Branch of Sunset Supply Pipeline (SABSSP) to meet current seismic standards in locations where they cross the Serra Fault, and achieve WSIP seismic reliability LOS goals; and

WHEREAS, On October 17, 2013, the San Francisco Planning Commission reviewed and considered the Final Environmental Impact Report (FEIR) for the Project in Planning Department File No. 2011.0123E, consisting of the Draft Environmental Impact Report (EIR) and 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 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 No. 19004; and

WHEREAS, The FEIR prepared for the Project is tiered from the PEIR, as authorized by and in accordance with CEQA and the CEQA Guidelines; 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, and those files are part of the record before this Commission; and

WHEREAS, The Planning Department, Steven H. Smith, is the custodian of records, located in File No 2011.0123E , at 1650 Mission Street, Fourth Floor, San Francisco, California; and

WHEREAS, SFPUC staff prepared proposed findings, as required by CEQA, (CEQA Findings) and a proposed MMRP, which material was made available to the public and the Commission for the Commission's review, consideration and action; 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 Exhibit 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 authorizes the SFPUC General Manager or his designee, to the extent necessary for Project construction, implementation, operation or maintenance, to undertake the process, in compliance with Government Code Section 7260 et seq., with the San Francisco Charter and all applicable laws, to take steps necessary to acquire, temporary or permanent interests in real property in: (1) Assessor's Parcel #019-170-020 owned by San Mateo Union High School District; (2) Assessor's Parcel #019-170-130 owned by Ng Cheuk Family Trust; (3) Assessor's Parcel #019-170-150 owned by Wong Thomas Wai-Kun Trust; (4) Multiple Assessor's Parcel Numbers owned by Shelter Creek Condominium Owner's Association in San Mateo County; (5) Assessor's Parcel #'s 021-490-050, 021-030-040, 021-030-020, 021-233-360, 021-490-040 owned by the City of Millbrae; (6) Assessor's Parcel #021-470-030 owned by Green Hills Country Club; (7) Assessor's Parcel #021-084-620 owned by Lomita Hills LLC; (8) Assessor's Parcel #008-421-120 owned by Kohl's Department Stores Lessee; (9) Assessor's Parcel #010-400-110 owned by Trans-Global LLC; and (10) Assessor's Parcel #010-400-240 owned by El Camino Enterprise LLC, 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, That this Commission authorizes the General Manager, or his designee, to obtain any necessary permits, consents from, and/or other agreements with Caltrans, City of San Bruno, City of South San Francisco, City of Millbrae, San Mateo County, San Mateo Union High School District, Shelter Creek Condominium Owner's Association, and Green Hills Country Club, relating to proposed Project construction activities and the relocation of existing utilities owned or operated by these entities within or adjacent to the Project area. These permits or agreements shall be consistent with SFPUC existing fee or easement interests, where applicable. To the extent that the terms and conditions of the required permits, instruments, or

agreements require SFPUC to indemnify other parties, those indemnity obligations shall be subject to review and approval by the San Francisco Risk Manager. The General Manager, in consultation with the City Attorney, may agree to other such terms and conditions (e.g. maintenance, repair, and responsibility for relocation of utilities or improvements) that are in the public interest, are consistent with the SFPUC's existing rights, and in the judgment of the General Manager, are reasonable and appropriate; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager, or his designee, to (i) exercise any City or SFPUC right under any deed, easement, lease, permit, or license as required or advisable in connection with the Project, and (ii) negotiate and execute with owners or occupiers of property interests or utility facilities or improvements, on, along, over, under, adjacent to, or in the vicinity of the SFPUC's right-of-way new or amended easements, leases, permits, licenses, encroachment removal, or other Project related agreements (each, a Use Instrument) with respect to uses and structures, fences, and other above-ground or subterranean improvements. The General Manager's authority so granted includes the authority, if necessary for the Project, to enter into, amend, or exercise rights under existing or new Use Instruments with any owner or occupier of property on, along, over, under, adjacent to, or in the vicinity of the SFPUC right-of-way, including Use Instruments required to accommodate Project construction activities or schedule, or to implement Project mitigation measures, but excluding the authority to dispose of any SFPUC real property interest. Any such new or amended Use Instrument will be 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 Commission Resolution, and in compliance with the Charter and all applicable laws, and approved as to form by the City Attorney; and be it

FURTHER RESOLVED, That the General Manager or his designee is authorized to apply for, and if necessary, seek Board of Supervisors' approval, and, if approved, accept and execute required permits or approvals, as necessary, in connection with Project construction, from local municipalities or counties, including but not limited to: (i) San Mateo County, City of Colma, City of Millbrae, City of San Bruno, and City of South San Francisco, and (ii) by U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service, California Department of Fish and Wildlife, San Francisco Bay Regional Water Quality Control Board, and any other regulatory approvals as required. To the extent that the terms and conditions of the necessary approvals will require SFPUC to indemnify other parties, those indemnity obligations are subject to review and approval by the San Francisco Risk Manager. The General Manager, in consultation with the City Attorney, is authorized to agree to such 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, are reasonable and appropriate for the scope and duration of the required approval, as necessary for the Project; and be it

FURTHER RESOLVED, The General Manager or his designee is authorized to work with the Director of Real Estate to seek Board approval, to the extent required, and if approved, to accept and execute the real property agreements and Use Instruments authorized herein; and be it

FURTHER RESOLVED, The General Manager will confer with the Commission during

the negotiation process on real estate agreements and financial assurances, as necessary, and report to the Commission on all agreements submitted to the Board of Supervisors for approval. Notwithstanding the authority granted to the General Manager by this Resolution, the General Manager is not authorized to dispose of any right-of-way or other SFPUC interest in real property, in any manner, including by sale, trade, or transfer, without approval by the SFPUC pursuant to Charter Section 8B124; and be it

FURTHER RESOLVED, That the General Manager or his designee is authorized to enter into any subsequent additions, amendments, or other modifications to the permits licenses, Use Instruments and other agreements, or amendments thereto, as described herein, that the General Manager, in consultation with the Commercial Land Manager 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 deliver of any such additions, amendments, or other modifications; and be it

FURTHER RESOLVED, that this Commission hereby approves Project No. CUW36702, Peninsula Pipelines Seismic Upgrade, and authorizes staff to proceed with actions necessary to implement the Project.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of October 22, 2013.



Secretary, Public Utilities Commission

