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**BOARD OF SUPERVISORS** 

[Amendment Agreement - Exchange Easements in Connection with the Bay Division Pipeline Reliability Upgrade Project-Bay Tunnell

Resolution approving and authorizing a Second Amendment to an agreement to exchange interests in real property to grant the Midpeninsula Regional Open Space District a permanent, non-exclusive public trail easement in exchange for a guitclaim to the City and County of San Francisco of an open space easement over real property owned by the City and County of San Francisco, as part of the San Francisco Public Utilities Commission Water System Improvement Program-Funded Project CUW36801, Bay Division Pipeline Reliability Upgrade-Bay Tunnel; and authorizing the General Manager of the San Francisco Public Utilities Commission, or Director of Property to execute documents, make certain modifications and take certain actions in furtherance of this Resolution, as defined herein.

WHEREAS, The San Francisco Public Utilities Commission ("SFPUC") approved Project CUW36801, Bay Division Pipeline Reliability Upgrade Project-Bay Tunnel ("Bay Tunnel" or the "Project") under the Water System Improvement Program ("WSIP") for improvements to the regional water supply system through SFPUC Resolution No. 09-0176 on October 27, 2009, incorporated herein by this reference, and acquired in connection therewith interests in certain real property described herein; and

WHEREAS, By Resolution No. 491-10 adopted effective as of October 22, 2010, the Board of Supervisors and Mayor approved an Agreement to Exchange Interests in Real Property ("Exchange Agreement") to acquire an exclusive, subsurface easement from the Midpeninsula Regional Open Space District ("District") in exchange for a 50-foot wide open space easement on SFPUC Lands ("Open Space Easement") located in the town of East Palo Alto known as the Ravenswood Property on Assessor's Parcel Numbers 093-590-030, 093-

590-050 and 093-590-060, adopted environmental findings under the California Environmental Quality Act ("CEQA"), CEQA Guidelines, and Administrative Code, Chapter 31 and adopted findings of consistency with City Planning Code, Section 101.1 through Board of Supervisors Resolution No. 491-10 which is incorporated herein by this reference; and

WHEREAS, The SFPUC and the District entered into the Exchange Agreement on November 17, 2010, which contemplated that the District would study the feasibility of a future public trail located on SFPUC property ("Trail Easement"); and

WHEREAS, On January 31, 2011, the SFPUC and the District closed escrow for SFPUC's acquisition of the subsurface easement in exchange for conveying the Open Space Easement to the District; and

WHEREAS, A copy of the Exchange Agreement between the District and the City is on file with the Clerk of the Board of Supervisors under File No. 101150, which is incorporated herein by this reference and is considered part of the record before this Board; and

WHEREAS, The District has conducted feasibility studies and has worked with SFPUC staff to identify a mutually acceptable alignment for the proposed Trail Easement and negotiated a Second Amendment to Agreement to Exchange Interests in Real Property ("Second Amendment") and a Public Trail Easement; and

WHEREAS, By Resolution No. 17-0087 adopted as effective as of April 25, 2017, a copy of which is on file with the Clerk of the Board of Supervisors of the City ("Board") under File No. 171007, which is incorporated herein by this reference, approved the proposed Second Amendment whereby SFPUC shall grant a new 20-foot wide easement to the District for a public trail on property under the SFPUC's jurisdiction, and in exchange the District shall quitclaim back to the SFPUC all rights, title and interest in an open space

easement that SFPUC originally granted to District pursuant to the Exchange Agreement; and

WHEREAS, The Project files, including the FEIR, PEIR and SFPUC Resolution No. 09-0120 have been made available for review by the Board and the public, and those files are considered part of the record before this Board; and

WHEREAS, In Planning Case 2017-010544GPR dated August 29, 2017, the Department of City Planning found the exchange of property interests for the Project to be in conformity with the General Plan and consistent with the Eight Priority Policies of City Planning Code, Section 101.1 to the extent applicable; and

WHEREAS, A copy of the proposed Second Amendment between the District and the City is on file with the Clerk of the Board of Supervisors under File No. 171007, which is incorporated herein by this reference and is considered part of the record before this Board; now, therefore, be it

RESOLVED, That in accordance with the recommendations of the Public Utilities

Commission and the Director of Property, the Board of Supervisors hereby approves the

Second Amendment and the transaction contemplated thereby in substantially the form of
such Second Amendment presented to the Board; and, be it

FURTHER RESOLVED, That the Board authorizes the Director of Property and/or the General Manager of the SFPUC to enter into any additions, amendments or other modifications to the Second Amendment (including, without limitation, the attached exhibits) that the Director of Property and/or the General Manager determines are in the best interest of the City, that do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transaction contemplated in the Second Amendment and effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Director of

Property or the General Manager of the Second Amendment and any additions or amendments thereto; and, be it

FURTHER RESOLVED, That the Director of Property is hereby authorized and urged, in the name and on behalf of the City and County, to execute the Second Amendment for the exchange of easements with the District in accordance with the terms and conditions of the Second Amendment, and to take any and all steps (including, but not limited to, the execution and delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing documents and other instruments or documents) as the Director of Property deems necessary or appropriate pursuant to the Second Amendment, or to otherwise effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Director of Property; and, be it

FURTHER RESOLVED, That upon execution of the Second Amendment, the San Francisco Public Utilities Commission shall transmit to the Clerk of the Board of Supervisors a copy of the Second Amendment, for inclusion in File No. 171007.

RECOMMENDED:
Nov
Director of Property
Real Estate Division

**RECOMMENDED:** 

General Manager
San Francisco Public Utilities Commission



## City and County of San Francisco Tails

City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102-4689

## Resolution

File Number: 171007

Date Passed: November 14, 2017

Resolution approving and authorizing a Second Amendment to an agreement to exchange interests in real property to grant the Midpeninsula Regional Open Space District a permanent, non-exclusive public trail easement in exchange for a quitclaim to the City and County of San Francisco of an open space easement over real property owned by the City and County of San Francisco, as part of the San Francisco Public Utilities Commission Water System Improvement Program-Funded Project CUW36801, Bay Division Pipeline Reliability Upgrade-Bay Tunnel; and authorizing the General Manager of the San Francisco Public Utilities Commission, or Director of Property to execute documents, make certain modifications and take certain actions in furtherance of this Resolution, as defined herein.

November 02, 2017 Budget and Finance Committee - RECOMMENDED

November 14, 2017 Board of Supervisors - ADOPTED

Ayes: 11 - Breed, Cohen, Farrell, Fewer, Kim, Peskin, Ronen, Safai, Sheehy, Tang and Yee

File No. 171007

I hereby certify that the foregoing Resolution was ADOPTED on 11/14/2017 by the Board of Supervisors of the City and County of San Francisco.

> Angela Calvillo Clerk of the Board

Mayor

**Date Approved**