

1 [Agreement to Purchase Two Access Road Easements over Portions of APN 016-002-014
2 located in Stanislaus County]

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4 **Resolution approving and authorizing an agreement for the purchase of two**
5 **permanent access road easements totaling 1.07 acres over portions of Assessor's**
6 **Parcel Number 016-002-014 located in Stanislaus County, required for the San**
7 **Joaquin Pipeline System Project No. CUW37301 (the "Project") for a purchase price**
8 **of \$2,900; adopting findings under the California Environmental Quality Act**
9 **("CEQA"); adopting findings that the conveyance is consistent with the City's**
10 **General Plan and Eight Priority Policies of City Planning Code Section 101.1; and**
11 **authorizing the Director of Property to execute documents, make certain**
12 **modifications and take certain actions in furtherance of this resolution.**

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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 Agreement For Purchase and Sale of Real Estate (the
20 "Purchase Agreement") between the City, as buyer, and Frank M. Bettencourt and Evelyn
21 H. Bettencourt Co-Trustees of the Frank M. and Evelyn H. Bettencourt Revocable family
22 Trust dated February 2, 1994, as to an undivided 40% interest; Richard Bettencourt, a
23 married man, as to an undivided five percent (5%) interest; Richard Bettencourt and
24 Darlene Bettencourt, husband and wife, as community property, as to an undivided 49%
25 interest; and Richard Bettencourt and Darlene Bettencourt, husband and wife, as to an

1 undivided six percent (6%) interest (collectively, "Seller"), as Seller, is on file with the Clerk
2 of the Board of Supervisors under File No. 090980; and,

3 WHEREAS, The Director of Property has determined, based on an independent MAI
4 appraisal, that the purchase price reflects the fair market value of the road easements and,

5 WHEREAS, The Director of Planning, by letter dated June 29, 2009, found that the
6 purchase of all the necessary property rights for the Project, is consistent with the City's
7 General Plan and with the Eight Priority Policies of City Planning Code Section 101.1,
8 which letter is on file with the Clerk of the Board of Supervisors under File No. 090980, and
9 which letter is incorporated herein by this reference; now, therefore, be it

10 RESOLVED, The Board has reviewed and considered the FEIR and record as a whole,
11 finds that the FEIR is adequate for its use as the decision making body for the action taken
12 herein and hereby incorporates by reference the CEQA findings contained in Resolution No.
13 369-09; and be it

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

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

23 FURTHER RESOLVED, That the Board of Supervisors of the City and County of
24 San Francisco hereby finds that the Purchase Agreement is consistent with the General
25 Plan and with the Eight Priority Policies of city planning Code Section 101.1 for the same

1 reasons as set forth in the letter of the Director of Planning dated June 29, 2009, and
2 hereby incorporates such findings by references as though fully set forth in this resolution;
3 and, be it

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

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

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

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5 RECOMMENDED: \$2,900 Available

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Amy L. Brown
Director of Property

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Controller

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Appropriation: Index Code 737312

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