

1 [Lease Agreement with the California State Lands Commission and the City and County of  
2 San Francisco]

3 **Resolution approving and authorizing a 25 year lease with the California State Lands**  
4 **Commission for a portion of the San Francisco Bay in Alameda and San Mateo**  
5 **Counties, at no rent, for the public purpose of constructing the San Francisco Public**  
6 **Utilities Commission Water System Improvement Program-Funded Project**  
7 **CUW36801, Bay Division Pipeline Reliability Upgrade - Tunnel; adopting**  
8 **environmental findings under the California Environmental Quality Act ("CEQA"),**  
9 **CEQA Guidelines, and Administrative Code Chapter 31; adopting findings of**  
10 **consistency with City Planning Code Section 101.1; and authorizing the General**  
11 **Manager of SFPUC to execute documents, make certain modifications and take**  
12 **certain actions in furtherance of this resolution.**

14 WHEREAS, The San Francisco Public Utilities Commission ("SFPUC") plans to  
15 construct Project CUW36801 Bay Division Pipeline Reliability Upgrade Project-Bay Tunnel  
16 ("Bay Tunnel" or the "Project"), under the Water System Improvement Program ("WSIP")  
17 for improvements to the regional water supply system, a public use, and in connection  
18 therewith will require interests in certain real property described herein; and,

19 WHEREAS, The objectives of the Project, together with other Bay Division Pipeline  
20 ("BDPL") Reliability Upgrade projects, are to provide a seismically reliable conduit between  
21 Mission Boulevard in Fremont and the Pulgas Tunnel in San Mateo County, to size and  
22 configure the BDPL transmission system for transmission of water across the Bay for  
23 distribution to residents of San Mateo County and the City and County of San Francisco,  
24 ("CCSF" or the "City") to replenish local reservoirs, and to contribute toward meeting  
25

1 estimated average annual demand under conditions of both planned and unplanned facility  
2 outages; and,

3 WHEREAS, A Final Program Environmental Impact Report ("PEIR") was prepared for  
4 the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No.  
5 17734; and

6 WHEREAS, Thereafter the SFPUC approved the WSIP and adopted findings and a  
7 Mitigation Monitoring and Reporting Program as required by the California Environmental  
8 Quality Act ("CEQA") on October 30, 2008 by Resolution No. 08-0200; and

9 WHEREAS, An environmental impact report ("EIR") as required by CEQA was  
10 prepared for the Project in Planning Department File No. 2005.01 64E; and

11 WHEREAS, The Final EIR ("FEIR") for the Project was certified by the San  
12 Francisco Planning Commission on July 9, 2009 by Motion No. 17918; and

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

15 WHEREAS, On July 14, 2009, the SFPUC, by Resolution No. 09-0120, a copy of  
16 which is on file with the Clerk of the Board of Supervisors of the City ("Board") in File  
17 No. 090979 and which is incorporated herein by this reference and is considered part of the  
18 record before this Board: (1) approved the Project; (2) adopted findings (CEQA Findings),  
19 including the statement of overriding considerations, and a Mitigation Monitoring and  
20 Reporting Program ("MMRP") required by CEQA; (3) authorized the General Manager to  
21 seek Board approval of, and if approved, to execute certain necessary agreements and  
22 deeds, which the SFPUC staff will pursue and submit to the Board at a later date; and

23 WHEREAS, The Project files, including the FEIR, PEIR and SFPUC Resolution No.  
24 09-0120 have been made available for review by the Board and the public, and those files  
25 are considered part of the record before this Board; and

1        WHEREAS, The Board has reviewed and considered the information and findings  
2 contained in the FEIR, PEIR and SFPUC Resolution No. 09-0120, and all written and oral  
3 information provided by the Planning Department, the public, relevant public agencies,  
4 SFPUC and other experts and the administrative files for the Project; and

5        WHEREAS, This Board, by Resolution No. 371-09 adopted on September 22, 2009,  
6 a copy of which is on file with the Clerk of the Board in File No. 090979 and which is  
7 incorporated herein by this reference and considered part of the record before this Board,  
8 adopted findings under CEQA related to the Project, including the statement of overriding  
9 considerations and the MMRP; and

10      WHEREAS, In Planning case 2009.0558R, the Department of City Planning found  
11 the acquisition of subsurface property interests for the Project to be in conformity with the  
12 General Plan and consistent with the Eight Priority Policies of City Planning Code Section  
13 101.1 to the extent applicable; and

14      WHEREAS, San Francisco Charter Section 9.118(c) requires Board approval of  
15 leases having a term of ten (10) or more years or having anticipated revenue to the City of  
16 One Million Dollars (\$1,000,000.00) or more; and

17      WHEREAS, Lease (W25137) with the California State Lands Commission ("SLC"),  
18 as landlord, and the City, as tenant (the "Lease"), is for a term of twenty-five (25) years for  
19 a portion of the San Francisco Bay located in Alameda and San Mateo counties, as more  
20 particularly described in the Lease (the "Property"), and no rent is being charged by SLC  
21 under the Lease for City to lease the Property; and

22      WHEREAS, On February 1, 2010, SLC approved the terms and conditions of the  
23 Lease; and

1        WHEREAS, A copy of the Lease is on file with the Clerk of the Board under File No.  
2 100516 and which is incorporated herein by this reference and is considered part of the  
3 record before this Board; now, therefore, be it

4        RESOLVED, The Board has reviewed and considered the FEIR and record as a whole,  
5 finds that the FEIR is adequate for its use as the decision-making body for the action taken  
6 herein and hereby incorporates by reference the CEQA findings contained in Resolution No.  
7 371-09; and be it

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

11        FURTHER RESOLVED, The Board finds that since the FEIR was finalized, there  
12 have been no substantial Project changes and no substantial changes in the Project  
13 circumstances that would require major revisions to the FEIR due to the involvement of  
14 new significant environmental effects or an increase in the severity of previously identified  
15 significant impacts, and there is no new information of substantial importance that would  
16 change the conclusions set forth in the FEIR; and, be it

17        FURTHER RESOLVED, That the Board hereby adopts as its own and incorporates  
18 by reference herein, as though fully set forth, the findings of the Planning Department that  
19 acquisition of subsurface property interests for the Project is consistent with the Eight  
20 Priority Policies of City Planning Code Section 101.1; and, be it

21        FURTHER RESOLVED, That the Board authorizes the General Manager of the  
22 SFPUC (the "General Manager") to execute the Lease, including all exhibits thereto, in a  
23 form to be approved by the City Attorney and in form substantially similar to the Lease on  
24 file with the Clerk of the Board in File No. 100516; and, be it

1           FURTHER RESOLVED, That the Board authorizes the General Manager to enter  
2 into any additions, amendments or other modifications to the Lease (including, without  
3 limitation, the attached exhibits) that the General Manager determines are in the best  
4 interest of the City, that do not materially increase the obligations or liabilities of the City,  
5 and are necessary or advisable to complete the transaction contemplated in the Lease and  
6 effectuate the purpose and intent of this resolution, such determination to be conclusively  
7 evidenced by the execution and delivery by the General Manager of the Lease and any  
8 additions or amendments thereto; and, be it

9           FURTHER RESOLVED, That the Board authorizes the General Manager to execute  
10 and enter into any additional documents as he or she deems necessary or appropriate, in  
11 consultation with the City Attorney, to consummate the transactions contemplated hereby  
12 or to otherwise effectuate the purpose and intent of this resolution, such determination to  
13 be conclusively evidenced by the execution and delivery by the General Manager of any  
14 such documents; and, be it

15          FURTHER RESOLVED, That the Board approves, confirms, and ratifies all prior  
16 actions taken by the officials, employees and agents of the SFPUC, Planning Commission,  
17 or the City with respect to the Lease.

18  
19          RECOMMENDED:

20            
21          Amy L. Brown  
22          Director of Property



**City and County of San Francisco**  
**Tails**  
**Resolution**

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

**File Number:** 100516

**Date Passed:** June 08, 2010

Resolution approving and authorizing a 25 year lease with the California State Lands Commission for a portion of the San Francisco Bay in Alameda and San Mateo Counties, at no rent, for the public purpose of constructing the San Francisco Public Utilities Commission Water System Improvement Program-Funded Project CUW36801, Bay Division Pipeline Reliability Upgrade - Tunnel; adopting environmental findings under the California Environmental Quality Act (CEQA), CEQA Guidelines, and Administrative Code Chapter 31; adopting findings of consistency with City Planning Code Section 101.1; and authorizing the General Manager of SFPUC to execute documents, make certain modifications and take certain actions in furtherance of this resolution.

June 08, 2010 Board of Supervisors - ADOPTED

Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 100516

I hereby certify that the foregoing  
Resolution was ADOPTED on 6/8/2010 by  
the Board of Supervisors of the City and  
County of San Francisco.

Angela Calvillo  
Clerk of the Board

Mayor Gavin Newsom

6/14/2010

Date Approved