

1 [Agreement to Exchange Easements in Connection with the Bay Division Pipeline Reliability
2 Upgrade Project – Bay Tunnel.]

3 **Resolution approving and authorizing an Agreement to Exchange Interests in Real**
4 **Property to obtain an exclusive, subsurface easement from the Midpeninsula Regional**
5 **Open Space District in exchange for a non-exclusive open space easement over real**
6 **property owned by the City and County of San Francisco, for the purpose of**
7 **constructing the San Francisco Public Utilities Commission Water System**
8 **Improvement Program-Funded Project CUW36801, Bay Division Pipeline Reliability**
9 **Upgrade – Bay Tunnel; adopting environmental findings under the California**
10 **Environmental Quality Act (“CEQA”), CEQA Guidelines, and Administrative Code**
11 **Chapter 31; adopting findings of consistency with City Planning Code Section 101.1;**
12 **and authorizing the General Manager of SFPUC to execute documents, make certain**
13 **modifications and take certain actions in furtherance of this resolution.**

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

22 WHEREAS, The objectives of the Project, together with other Bay Division Pipeline
23 (“BDPL”) Reliability Upgrade projects, are to provide a seismically reliable conduit between
24 Mission Boulevard in Fremont and the Pulgas Tunnel in San Mateo County, to size and
25 configure the BDPL transmission system for transmission of water across the Bay distribution

1 to residents of San Mateo County and the City and County of San Francisco, ("CCSF" or the
2 "City") to replenish local reservoirs, and to contribute toward meeting estimated average
3 annual demand under conditions of both planned and unplanned facility outages; and,

4 WHEREAS, A Final Program Environmental Impact Report ("PEIR") was prepared for
5 the WSIP and certified by the Planning Commission on October 30, 2008 by Motion No.
6 17734; and

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

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

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

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

16 WHEREAS, On July 14, 2009, the SFPUC, by Resolution No. 09-0120, a copy of
17 which is on file with the Clerk of the Board of Supervisors of the City ("Board") in File
18 No. 090979 and which is incorporated herein by this reference and is considered part of the
19 record before this Board: (1) approved the Project; (2) adopted findings (CEQA Findings),
20 including the statement of overriding considerations, and a Mitigation Monitoring and
21 Reporting Program ("MMRP") required by CEQA; (3) authorized the General Manager to
22 seek Board approval of, and if approved, to execute certain necessary agreements and
23 deeds for acquisition of interests in specified parcels of real property, including the real
24 property commonly known as San Mateo County Assessor's Parcels No. 063-590-060 and
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1 096-230-110 (the "Subject Property"), owned by Midpeninsula Regional Open Space
2 District (the "District"); and

3 WHEREAS, The Project files, including the FEIR, PEIR and SFPUC Resolution No.
4 09-0120 have been made available for review by the Board and the public, and those files
5 are considered part of the record before this Board; and

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

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

15 WHEREAS, In Planning case 2009.0558R, the Department of City Planning found
16 the acquisition of subsurface property interests for the Project to be in conformity with the
17 General Plan and consistent with the Eight Priority Policies of City Planning Code Section
18 101.1 to the extent applicable; and

19 WHEREAS, This Board, by Resolution No. 0471-09 adopted on November 24, 2009,
20 (1) adopted findings of public necessity and other findings under California Code of Civil
21 Procedure Sections 1240.030, 1240.510, 1240.610 and 1245.230, (2) authorized
22 acquisition of subsurface tunnel easements in specified properties, including the Subject
23 Property, by eminent domain, and (3) adopted CEQA Findings, including the statement of
24 overriding considerations, and a Mitigation Monitoring and Reporting Program ("MMRP")
25 required by CEQA, with respect to approval of such resolution; and

1 WHEREAS, The District agrees to grant the City an exclusive, subsurface easement
2 through the Subject Property, required for the Project, in exchange for a non-exclusive
3 open space easement on City-owned property to protect significant scenic and ecological
4 values in San Mateo County; and,

5 WHEREAS, On July 14, 2010, the District's Board of Directors adopted Resolution
6 No. 10-26 authorizing the exchange of easements between the District and the City and is
7 on file with the Clerk of the Board of Supervisors under File No. 101150; and,

8 WHEREAS, A copy of the proposed Agreement to Exchange Interests in Real
9 Property ("Agreement") between the District and the City is on file with the Clerk of the
10 Board of Supervisors under File No. 101150, which is incorporated herein by this
11 reference and is considered part of the record before this Board; now, therefore, be it

12 RESOLVED, The Board has reviewed and considered the FEIR and record as a whole,
13 finds that the FEIR is adequate for its use as the decision-making body for the action taken
14 herein and hereby incorporates by reference the CEQA findings contained in Resolution No.
15 371-09; and be it

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

19 FURTHER RESOLVED, The Board finds that since the FEIR was finalized, there
20 have been no substantial Project changes and no substantial changes in the Project
21 circumstances that would require major revisions to the FEIR due to the involvement of
22 new significant environmental effects or an increase in the severity of previously identified
23 significant impacts, and there is no new information of substantial importance that would
24 change the conclusions set forth in the FEIR; and, be it
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1 FURTHER RESOLVED, That the Board hereby adopts as its own and incorporates
2 by reference herein, as though fully set forth, the findings of the Planning Department that
3 acquisition of subsurface property interests for the Project is consistent with the Eight
4 Priority Policies of City Planning Code Section 101.1; and, be it

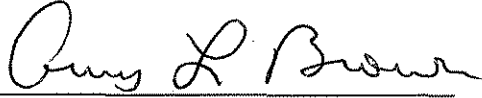
5 FURTHER RESOLVED, That in accordance with the recommendations of the Public
6 Utilities Commission and the Director of Property, the Board of Supervisors hereby
7 approves the Agreement and the transaction contemplated thereby in substantially the form
8 of such Agreement presented to the Board; and,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

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

18 FURTHER RESOLVED, That the Director of Property is hereby authorized and
19 urged, in the name and on behalf of the City and County, to execute the Agreement for the
20 exchange of easements with the District in accordance with the terms and conditions of the
21 Agreement, and to take any and all steps (including, but not limited to, the execution and
22 delivery of any and all certificates, agreements, notices, consents, escrow instructions,
23 closing documents and other instruments or documents) as the Director of Property deems
24 necessary or appropriate pursuant to the 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.

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5 RECOMMENDED:

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7 Amy L. Brown
8 Director of Property
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City and County of San Francisco

Tails
Resolution

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

File Number: 101150

Date Passed: October 19, 2010

Resolution approving and authorizing an Agreement to Exchange Interests in Real Property to obtain an exclusive, subsurface easement from the Midpeninsula Regional Open Space District in exchange for a non-exclusive open space easement over real property owned by the City and County of San Francisco, for the purpose of constructing the San Francisco Public Utilities Commission Water System Improvement Program-Funded Project CUW36801, Bay Division Pipeline Reliability Upgrade - Bay 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.

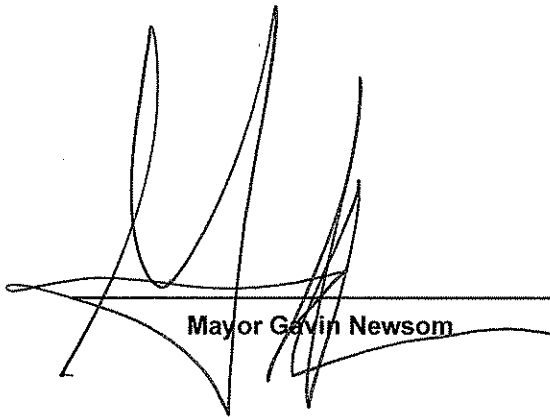
October 13, 2010 Budget and Finance Committee - RECOMMENDED

October 19, 2010 Board of Supervisors - ADOPTED

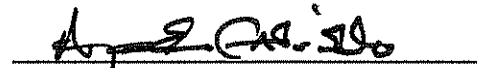
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 101150

I hereby certify that the foregoing Resolution was ADOPTED on 10/19/2010 by the Board of Supervisors of the City and County of San Francisco.



Mayor Gavin Newsom



Angela Calvillo
Clerk of the Board

October 22, 2010
Date Approved