

[Funding Agreement to Fund Acquisition of Nolan Ranch Conservation Easement and Endowment Agreement to Fund Compliance Monitoring of the Conservation Easement]

Resolution: 1) authorizing pursuant to Charter Section 9.118(b) (i) a Funding Agreement with The Nature Conservancy and Santa Clara County under which the City would contribute one third of the funds, up to \$900,000, for Santa Clara County to acquire the Nolan Ranch and create a conservation easement of which the City would be a third party beneficiary, and (ii) an Endowment Agreement under which the City would provide a permanent endowment of \$125,000 to fund The Nature Conservancy's monitoring of compliance with the conservation easement; and 2) authorizing the General Manager of the Public Utilities Commission to execute documents, make certain modifications, and take certain actions in furtherance of this Resolution.

WHEREAS, The San Francisco Public Utilities Commission (SFPUC) initiated the Watershed and Environmental Improvement Program (WEIP) in 2006 to provide \$50 million over 10 years for the SFPUC to manage, protect and restore environmental resources critical to or affected by SFPUC operations; and

WHEREAS, Santa Clara County (County) is a political subdivision of the State of California; and

WHEREAS, The Nature Conservancy (Conservancy) is a District of Columbia non-profit organization formed to conserve the lands and waters on which all life depends; and

WHEREAS, The Conservancy has acquired an option (Option) to purchase the 1,157 acre Nolan Ranch, also known as Sulphur Creek Ranch (Land) located in the upper Alameda Creek Watershed in Santa Clara County for a purchase price of \$2,600,000 (Purchase Price); and

WHEREAS, The Conservancy proposes to assign the Option to the County, and the

1 Conservancy and the County propose to work cooperatively with the City and County of San
2 Francisco (City), acting through the SFPUC, to jointly fund the County's acquisition of the
3 Land for the purposes of (i) granting a conservation easement to Conservancy to protect the
4 watershed and other natural resources of such Land in perpetuity (Conservation Easement),
5 and (ii) preserving the Land in its current open space condition to give the County the
6 opportunity to conduct the necessary planning process to develop a proposed management
7 plan for managing the Land as a park for low impact public recreation and to conduct the
8 appropriate environmental review of the plan; and

9 WHEREAS, The County's appraiser has provided a draft appraisal report with
10 comparable sales data reflecting that the fair market value of the Land exceeds the Purchase
11 Price, which report has been reviewed and approved by the Acting Director of Property, and
12 the appraiser has committed to furnish a final appraisal report (Appraisal Report) by
13 June 15, 2012, which SFPUC staff will submit to the Director of Property for review and
14 approval; and

15 WHEREAS, SFPUC staff have negotiated proposed terms and conditions of a Funding
16 and Acquisition Agreement which is part of the record before this Board (Funding Agreement),
17 pursuant to which the SFPUC would provide funding to cover one third the Purchase Price of
18 the Land and certain other acquisition costs as described in the agreement, for a total amount
19 not to exceed \$900,000 conditioned upon the County granting the Conservation Easement to
20 the Conservancy through the same escrow in which the County acquires the Land; and

21 WHEREAS, SFPUC staff have negotiated proposed terms and conditions of an
22 Endowment Agreement which is part of the record before this Board, pursuant to which the
23 SFPUC would provide \$125,000 for a permanent endowment to fund compliance monitoring
24 for the Conservation Easement; and
25

1 WHEREAS, SFPUC staff have negotiated proposed terms and conditions of a Grant
2 Deed of Conservation Easement (Conservation Easement) which is part of the record before
3 this Board, pursuant to which scenic, aesthetic, natural, hydrologic, open space, ecological,
4 and scientific values of the Land, including watershed and water quality protection, would be
5 protected in perpetuity, the County would be permitted to use the Land for low-impact public
6 recreation purposes consistent with such conservation purposes, and the City, acting through
7 the SFPUC, would be a third party beneficiary with rights to enforce certain terms of the
8 Conservation Easement; and

9 WHEREAS, Funds for SFPUC's obligations under the Funding Agreement and
10 Endowment Agreement will be available at the time of approval of the agreements from
11 Project CUW394. Water System Improvement Program – Watershed and Environmental
12 Improvement Program (Measure A Bond funds); and

13 WHEREAS, on April 4, 2012, the acquisition of the Land and creation of the
14 conservation easement were determined to be exempt from the California Environmental
15 Quality Act (CEQA) as a Class 25 (Transfers of Ownership of Interest in Land to Preserve
16 Existing Natural Conditions and Historical Resources) categorical exemption under CEQA
17 Guidelines Section 15325 as described in the determination which is part of the record before
18 this Board;

19 WHEREAS, on May 22, 2012, the SFPUC, by Resolution No. 12-0088, a copy of which
20 is part of the record before this Board, authorized the General Manager of the SFPUC or his
21 designee, following Board of Supervisors approval of the Funding Agreement and Endowment
22 Agreement, to execute such agreements with such modifications that, in the judgment of the
23 General Manager and/or his designee, in consultation with the City Attorney, are in the best
24 interest of the City, do not materially increase the obligations or liabilities or material diminish
25 the benefits to the City, are necessary or advisable to effectuate the purposes and intent of

1 the Conservation Easement or this Resolution, and are in compliance with applicable laws;
2 now, therefore, be it

3 RESOLVED, That, provided the SFPUC receives a final Appraisal Report acceptable to
4 the City's Director of Property, reflecting that the fair market value of the Land is not less than
5 the Purchase Price, the Board of Supervisors hereby authorizes the General Manager of the
6 SFPUC or his designee to execute the Funding Agreement and the Endowment Agreement;
7 and be it

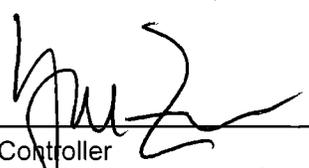
8 FURTHER RESOLVED, That this Board of Supervisors authorizes staff to proceed with
9 actions necessary to implement the Funding Agreement and Endowment Agreement following
10 execution, and to implement City's third party beneficiary rights once the Conservation
11 Easement has been granted, and ratifies, approves and authorizes all actions heretofore
12 taken by any City official in connection with such agreements; and be it

13 FURTHER RESOLVED, That this Board of Supervisors hereby authorizes the General
14 Manager of the SFPUC and/or his designee to enter into any amendments or modifications to
15 the Funding Agreement and Endowment Agreement, including without limitation, the exhibits,
16 that the General Manager determines, in consultation with the City Attorney, are in the best
17 interest of the City, do not materially increase the obligations or liabilities of the City or
18 materially diminish the benefits to the City, are necessary or advisable to effectuate the
19 purposes and intent of the Conservation Easement or this Resolution, and are in compliance
20 with all applicable laws, including the City Charter.

21 RECOMMENDED:

22 
23 _____
24 Ed Harrington
25 General Manager
San Francisco Public Utilities Commission

FUNDS AVAILABLE:

22 
23 _____
24 Controller
25 Appropriation : ~~Index Code 739409~~

Project Code
CEW 394

Public Utilities Commission
BOARD OF SUPERVISORS



City and County of San Francisco

**Tails
Resolution**

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

File Number: 120611

Date Passed: July 17, 2012

Resolution: 1) authorizing, pursuant to Charter Section 9.118(b)(i), a Funding Agreement with The Nature Conservancy and Santa Clara County under which the City would contribute one third of the funds, up to \$900,000, for Santa Clara County to acquire the Nolan Ranch and create a conservation easement of which the City would be a third-party beneficiary, and (ii) an Endowment Agreement under which the City would provide a permanent endowment of \$125,000 to fund The Nature Conservancy's monitoring of compliance with the conservation easement; and 2) authorizing the General Manager of the Public Utilities Commission to execute documents, make certain modifications, and take certain actions in furtherance of this Resolution.

July 11, 2012 Budget and Finance Sub-Committee - RECOMMENDED

July 17, 2012 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Olague and Wiener

File No. 120611

I hereby certify that the foregoing Resolution was ADOPTED on 7/17/2012 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved