

1 [Agreement to Purchase Permanent Subsurface Easements for the Sunnydale Sewer
2 Improvement Project totaling \$174,001]

3 **Resolution approving and authorizing agreements for the acquisition of permanent**
4 **subsurface sewer easements required for the Sunnydale Sewer Improvement Project**
5 **No. CENMSCIC2362 (the "Project") over APN 5104/1 and portions of San Francisco**
6 **APN 5104/4, 4991/7/8, 4991/9 and 4991/68 from Recology Properties, Inc. (fka Macor,**
7 **Inc.) and Recology San Francisco (fka SF Recycling & disposal, Inc./fka Sanitary Fill**
8 **Co.) totaling \$174,001., comprising 31,826.19 square feet; adopting findings under**
9 **the California Environmental Quality Act ("CEQA"); adopting findings that the**
10 **conveyance is consistent with the City's General Plan and Eight Priority Policies of**
11 **City Planning Code Section 101.1; and authorizing the Director of Property to**
12 **execute documents, make certain modifications and take certain actions in**
13 **furtherance of this resolution.**

14
15 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) has developed
16 a project known as the Sunnydale Sewer System Improvement Project, (also commonly
17 referred to as Project No. CENMSMSCI23, and herein as the "Project"), that includes the
18 construction of new and replacement sewer facilities in the Visitation Valley-Sunnydale
19 neighborhood in San Francisco to provide improvements to the collection and
20 transportation of sewage and storm water; and

21 WHEREAS, The objectives of the Project are to construct new and replacement sewer
22 facilities in the Visitation Valley/Sunnydale neighborhood to improve conditions to reduce
23 incidents of flooding. The Project will be constructed in two phases. Phase I will include
24 construction of a sewer tunnel from the intersection of Sunnydale Avenue and Talbert Street
25 to the Sunnydale Storage Facility and Pump Station at Harney Way and will include

1 installation of approximately 4,000 feet of new pipeline. Phase II will include construction of
2 sewer pipelines along Talbert Street between Visitacion Avenue and the former Union Pacific
3 (UP) railroad right-of-way, along Visitacion Avenue between Rutland Street and Talbert
4 Street, and along the former UP railroad right-of-way between Schwerin Street and Talbert
5 Street and will include installation of approximately 2,800 feet of pipeline; and

6 WHEREAS, The Project is located primarily within the City and County of San
7 Francisco, except for approximately 200 feet of pipeline near the southern end of Talbert
8 Street within an existing sewer easement in Daly City in San Mateo County and a staging
9 area located partially in the City of Brisbane. The sewers will be constructed in street rights-of-
10 way and in easements across private property; and

11 WHEREAS, A Final Mitigated Negative Declaration (FMND) was approved by the San
12 Francisco Planning Department by on April 8, 2010, a copy of which is on file with the Clerk of
13 the Board of Supervisors in File No. 100688; and

14 WHEREAS, On May 11, 2010, as required by the California Environmental Quality
15 Act ("CEQA") , the SFPUC by Resolution No. 10-0082, a copy of which is included in Board
16 of Supervisors File No. 100688 and is incorporated herein by this reference, (1) approved
17 the Project, (2) adopted the FMND, the CEQA findings and the Mitigation Monitoring and
18 Reporting Program ("MMRP") required by CEQA, and (3) authorized the General Manager
19 to seek the Board of Supervisors' approval of and, if approved, to execute certain
20 necessary agreements and deeds; and

21 WHEREAS, The Project files, including the FMND, the CEQA findings, the MMRP
22 and SFPUC Resolution No. 10-0082 have been made available for review by the Board
23 and the public, and those files are considered part of the record before this Board; and

24 WHEREAS, The Board of Supervisors has reviewed and considered the information
25 and findings contained in the FMND, the CEQA findings, the MMRP and SFPUC

1 Resolution No. 10-0082, and all written and oral information provided by the Planning
2 Department, the public, relevant public agencies, SFPUC and other experts and the
3 administrative files for the Project; and

4 WHEREAS, This Board, by Resolution No. 100607 adopted on , 2010, a copy of
5 which is on file with the Clerk of the Board of Supervisors in File No. 100688 and which is
6 incorporated herein by this reference and considered part of the record before this Board,
7 adopted findings under CEQA related to the Project, including the statement of overriding
8 considerations and the MMRP; and

9 WHEREAS, In accordance with the SFPUC Resolution and pursuant to the terms
10 and conditions of the Agreements for Purchase and Sale and temporary Licenses to Enter
11 and Use Property, copies of which are on file with the Clerk of the Board of Supervisors in
12 File No. 100688, the Sellers have agreed to a total acquisition costs of \$2,459,664, which
13 was determined by independent appraisal and approved by the Director of Property; and

14 WHEREAS, The subject real property rights required for the Project and the
15 breakdown of the related areas and acquisition costs are:

16 (1) a permanent subsurface sewer easements over a portion of San Francisco APN
17 5104/1 comprising 5,955 s.f. at the fair market value of \$35,000,

18 (2) a permanent subsurface sewer easement over a portion of San Francisco APN
19 5104/4 comprising 4,470 s.f. at the purchase price of \$22,000, (3) a permanent subsurface
20 easement over a portion of San Francisco APN 4991/7/8 comprising 15,437 s.f., at the
21 purchase price of \$82,000, and

22 4) a permanent subsurface easement over a portion of San Francisco APN 4991/9
23 comprising 5,964 s.f. at a purchase price of \$35,000, and

24 (5) a permanent subsurface easement over a portion of San Francisco APN
25 4991/68 comprising 0.19 s.f. at a purchase price of \$1; and

1 WHEREAS, Copies of the Agreements For Purchase and Sale of the easement
2 rights (the "Purchase Agreements") between the City, as buyer, and Recology Properties,
3 Inc. (fka Macor, Inc.) and Recology San Francisco (fka SF Recycling & Disposal, Inc. (fka
4 San Francisco Recycling & Disposal, Inc., fka Sanitary Fill Co.) (the "Sellers"), as the
5 Sellers, are on file with the Clerk of the Board of Supervisors under File No. 100688; and
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7 WHEREAS, The Director of Property has determined, based on an independent MAI
8 appraisal, that the Purchase Agreements reflect the fair market value of the subject
9 property rights; and,

10 WHEREAS, The Director of Planning, by letter dated May 13, 2010, found that the
11 purchase of all the necessary property rights for the Project, is consistent with the City's
12 General Plan and with the Eight Priority Policies of City Planning Code Section 101.1,
13 which letter is on file with the Clerk of the Board of Supervisors under File No. 100688, and
14 which letter is incorporated herein by this reference; now, therefore, be it

15 RESOLVED, The Board, after review and consideration of the FMND, the CEQA
16 findings and record as a whole, finds that the FMND is adequate for its use as the decision
17 making body for the action taken herein and hereby incorporates by reference the CEQA
18 findings contained in Resolution No.10-0607; and be it

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

22 FURTHER RESOLVED, The Board finds that since the FMND was finalized, there
23 have been no substantial Project changes and no substantial changes in the Project
24 circumstances that would require major revisions to the FMND due to the involvement of
25 new significant environmental effects or an increase in the severity of previously identified

1 significant impacts, and there is no new information of substantial importance that would
2 change the conclusions set forth in the FMND; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors of the City and County of
4 San Francisco hereby finds that the Purchase Agreements are consistent with the General
5 Plan and with the Eight Priority Policies of City Planning Code Section 101.1 for the same
6 reasons as set forth in the letter from the Director of Planning dated May 13, 2010, and
7 hereby incorporates such findings by references as though fully set forth in this resolution;
8 and, be it

9 FURTHER RESOLVED, That in accordance with the recommendations of the Public
10 Utilities Commission and the Director of Property, the Board of Supervisors hereby
11 approves the Purchase Agreements and the transaction contemplated thereby in
12 substantially the form of such agreements presented to this Board; and, be it

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

22 FURTHER RESOLVED, That the Director of Property is hereby authorized and
23 urged, in the name and on behalf of the City and County, to accept the deeds to the
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1 easements acquired from the Sellers upon the closing in accordance with the terms
2 and conditions of the Purchase and Sale Agreements and to take any and all steps
3 (including, but not limited to, the execution and delivery of any and all certificates,
4 agreements, notices, consents, escrow instructions, closing documents and other
5 instruments or documents) as the Director of Property deems necessary or appropriate in
6 order to consummate the conveyance of the easements pursuant to the Purchase and Sale
7 Agreements, or to otherwise effectuate the purpose and intent of this resolution, such
8 determination to be conclusively evidenced by the execution and delivery by the Director of
9 Property of any such documents.

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RECOMMENDED:

\$2,459,664 Available
Appropriation: Index CodeCWPX5CCPFCP1

Amy L. Brown
Director of Property

Controller