

1 [Agreement to Purchase Permanent Subsurface Easements and Temporary License
2 Agreements to Enter and Use Property for the Sunnydale Sewer System Improvement
3 Project totaling \$2,459,664]

4 **Resolution approving and authorizing agreements for the acquisition of the**
5 **following real property rights required for the Sunnydale Sewer Improvement Project**
6 **No. CENMSCIC2362 totaling \$2,459,664: (1) permanent subsurface sewer easements**
7 **over portions of San Francisco APN 4991/24 and 4991/65 comprising 11,677.7 square**
8 **feet, (2) permanent subsurface sewer easements over portions of San Francisco**
9 **APN 5100/3, 5101/7 and 5102/9 comprising 24,468 square feet, (3) a temporary 18-**
10 **month License with a 6-month option term over San Francisco APN 4991/24, 4991/61,**
11 **4991/65 comprising 47,568 square feet, and 22,215 square feet over the contiguous**
12 **Brisbane APN 005-153-030, and (4) a temporary 18-month License with a 6-month**
13 **option term over portions of San Francisco APN 5100/3 and 5107/1 comprising**
14 **24,613.7 square feet; adopting findings under the California Environmental Quality**
15 **Act (CEQA"); adopting findings that the conveyance is consistent with the City's**
16 **General Plan and Eight Priority Policies of City Planning Code Section 101.1; and**
17 **authorizing the Director of Property to execute documents, make certain**
18 **modifications and take certain actions in furtherance of this resolution.**

19
20 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) has developed
21 a project known as the Sunnydale Sewer System Improvement Project, (also commonly
22 referred to as Project No. CENMSMSCI2362, and herein as the "Project"), that includes the
23 construction of new and replacement sewer facilities in the Visitation Valley-Sunnydale
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1 neighborhood in San Francisco to provide improvements to the collection and
2 transportation of sewage and storm water; and

3 WHEREAS, The objectives of the Project are to construct new and replacement sewer
4 facilities in the Visitacion Valley/Sunnydale neighborhood to improve conditions to reduce
5 incidents of flooding. The Project will be constructed in two phases. Phase I will include
6 construction of a sewer tunnel from the intersection of Sunnydale Avenue and Talbert Street
7 to the Sunnydale Storage Facility and Pump Station at Harney Way and will include
8 installation of approximately 4,000 feet of new pipeline. Phase II will include construction of
9 sewer pipelines along Talbert Street between Visitacion Avenue and the former Union Pacific
10 (UP) railroad right-of-way, along Visitacion Avenue between Rutland Street and Talbert
11 Street, and along the former UP railroad right-of-way between Schwerin Street and Talbert
12 Street and will include installation of approximately 2,800 feet of pipeline; and

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

18 WHEREAS, A Final Mitigated Negative Declaration (FMND) was approved by the San
19 Francisco Planning Department by on April 8, 2010, a copy of which is on file with the Clerk
20 of the Board of Supervisors in File No. 100687; and

21 WHEREAS, On May 11, 2010, as required by the California Environmental Quality
22 Act ("CEQA") , the SFPUC by Resolution No. 10-0082, a copy of which is included in Board
23 of Supervisors File No. 100607 and is incorporated herein by this reference, (1) approved
24 the Project, (2) adopted the FMND, the CEQA findings and the Mitigation Monitoring and
25 Reporting Program ("MMRP") required by CEQA, and (3) authorized the General Manager

1 to seek the Board of Supervisors' approval of and, if approved, to execute certain
2 necessary agreements and deeds; and

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

6 WHEREAS, The Board of Supervisors has reviewed and considered the information
7 and findings contained in the FMND, the CEQA findings, the MMRP and SFPUC
8 Resolution No. 10-0082, and all written and oral information provided by the Planning
9 Department, the public, relevant public agencies, SFPUC and other experts and the
10 administrative files for the Project; and

11 WHEREAS, This Board, by Resolution No. 330-10 adopted on July 20, 2010, a copy of
12 which is on file with the Clerk of the Board of Supervisors in File No. 100687 and which is
13 incorporated herein by this reference and considered part of the record before this Board,
14 adopted findings under CEQA related to the Project, including the statement of overriding
15 considerations and and the MMRP; and

16 WHEREAS, In accordance with the SFPUC Resolution and pursuant to the terms
17 and conditions of the Agreements for Purchase and Sale and temporary Licenses to Enter
18 and Use Property, copies of which are on file with the Clerk of the Board of Supervisors in
19 File No. 100687, the Sellers have agreed to a total acquisition costs of \$2,459,664, which
20 was determined by independent appraisal and approved by the Director of Property; and

21 WHEREAS, The subject real property rights required for the Project and the
22 breakdown of the related acquisition costs are:

23 (1) permanent subsurface sewer easements over portions of San Francisco APN
24 4991/24 and 4991/65 comprising 11,677.7 s.f. at the fair market value of \$654,000,
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1 (2) permanent subsurface sewer easements over portions of San Francisco APN
2 5100/3, 5101/7 and 5102/9 comprising 24,468 s.f. at the purchase price of \$1,020,000
3 consisting of the fair market value of \$345,000 together with \$675,000 as full compensation
4 for the Seller's expected costs of foundation modifications to avoid negative impacts
5 affecting the Project's proposed sewer tunnel,

6 (3) a temporary 18-month License to enter and use property with a 6-month option
7 term over San Francisco APN 4991/24, 4991/61, 4991/65 comprising 47,568 s.f., and
8 22,215 s.f. over the contiguous Brisbane APN 005-153-030 from Sierra Properties, Inc. , at
9 a cost of \$639,212, and

10 4) a temporary 18-month License to enter and use property with a 6-month option
11 term over portions of San Francisco APN 5100/3 and 5107/1 comprising 24,613.7 s.f. at a
12 cost of \$146,452; and

13 WHEREAS, Copies of the Agreements For Purchase and Sale of the easement
14 rights (the "Purchase Agreements") between the City, as buyer, and Universal Paragon
15 Corporation and its affiliated entities (collectively, the "Sellers"), as the Sellers, are on file
16 with the Clerk of the Board of Supervisors under File No. 100687; and

17 WHEREAS, Copies of the License Agreements to Enter and Use Property (the
18 "License Agreements") between the City, as licensee, with Universal Paragon Corporation
19 and its affiliated entities (collectively, the "Licensors") as the Licensors, are on file with the
20 Clerk of the Board of Supervisors under File No. 100687; and

21 WHEREAS, The Director of Property has determined, based on an independent MAI
22 appraisal, that the Purchase Agreements and the temporary License Agreements reflect
23 the fair market value of the subject property rights; and,

24 WHEREAS, The Director of Planning, by letter dated May 13, 2010, found that the
25 purchase of all the necessary property rights for the Project, is consistent with the City's

1 General Plan and with the Eight Priority Policies of City Planning Code Section 101.1,
2 which letter is on file with the Clerk of the Board of Supervisors under File No. 100687 , and
3 which letter is incorporated herein by this reference; now, therefore, be it

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

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

23 FURTHER RESOLVED, That in accordance with the recommendations of the Public
24 Utilities Commission and the Director of Property, the Board of Supervisors hereby
25 approves the Purchase Agreements and temporary License Agreements and the

1 transaction contemplated thereby in substantially the form of such agreements presented to
2 this Board; and, be it

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

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

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RECOMMENDED:

Amy L. Brown
Amy L. Brown
Director of Property

\$2,459,664 Available
Appropriation: Index Code ~~GENMSCIC2362~~
CWPX5CCFFCP1

[Signature]
Controller



City and County of San Francisco

Tails
Resolution

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

File Number: 100687

Date Passed: July 20, 2010

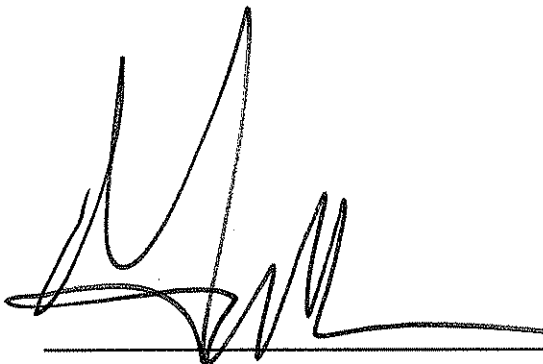
Resolution approving and authorizing agreements for the acquisition of the following real property rights required for the Sunnydale Sewer Improvement Project No. CENMSCIC2362 (Project) totaling \$2,459,664: (1) permanent subsurface sewer easements over portions of San Francisco APN 4991/24 and 4991/65 comprising 11,677.7 square feet, (2) permanent subsurface sewer easements over portions of San Francisco APN 5100/3, 5101/7, and 5102/9 comprising 24,468 square feet, (3) a temporary 18-month License with a 6-month option term over San Francisco APN 4991/24, 4991/61, 4991/65 comprising 47,568 square feet, and 22,215 square feet over the contiguous Brisbane APN 005-153-030, and (4) a temporary 18-month License with a 6-month option term over portions of San Francisco APN 5100/3 and 5107/1 comprising 24,613.7 square feet; adopting findings under the California Environmental Quality Act (CEQA); adopting findings that the conveyance is consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1; and authorizing the Director of Property to execute documents, make certain modifications and take certain actions in furtherance of this resolution.

July 20, 2010 Board of Supervisors - ADOPTED

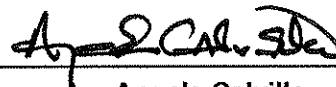
Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

File No. 100687

I hereby certify that the foregoing Resolution was ADOPTED on 7/20/2010 by the Board of Supervisors of the City and County of San Francisco.



Mayor Gavin Newsom



Angela Calvillo
Clerk of the Board

July 29, 2010

Date Approved