

1 [Summary Vacation of a Portion of Channel Street Between 7<sup>th</sup> Street and Carolina  
2 Street and Exchange of Property]

3 **Ordinance ordering the summary vacation of a portion of Channel Street**  
4 **between 7<sup>th</sup> Street and Carolina Street, subject to specified conditions; adopting**  
5 **findings pursuant to the California Streets and Highways Code Sections 8330 et**  
6 **seq.; authorizing the exchange of such vacated City property with a new lot**  
7 **created in Record of Survey No. 4778, owned by Recology Properties Inc. and**  
8 **Sunset Scavenger Company~~Macor, Inc., Sunset Scavenger Company, and~~**  
9 **~~Norcal Waste Systems, Inc.~~; adopting environmental findings and findings that**  
10 **the vacation and exchange are consistent with the City's General Plan and Eight**  
11 **Priority Policies of City Planning Code Section 101.1; and authorizing actions in**  
12 **furtherance of the ordinance.**

13 NOTE: Additions are *single-underline italics Times New Roman*;  
14 deletions are ~~*strike-through italics Times New Roman*~~.  
15 Board amendment additions are double-underlined;  
16 Board amendment deletions are ~~strikethrough normal~~.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Findings. The Board of Supervisors of the City and County of  
18 San Francisco finds, determines and declares as follows:

19 A. The City owns Channel Street between 7<sup>th</sup> Street and Carolina  
20 Street, with a portion thereof consisting of approximately 31,400 square feet, which is  
21 approximately half the width of the street, as shown in Department of Public Works'  
22 SUR Map No. SUR-5006, dated May, 2006, and as more particularly described in the  
23 legal description attached to such map (the "City Property"). A copy of such map and  
24 accompanying legal description are on file with the Clerk of the Board of Supervisors  
25 in File No. \_\_\_\_\_ 081509 and are incorporated herein by reference.

1           B.     ~~Recology Properties Inc., a California corporation, and Sunset~~  
2     ~~Scavenger Company, a California corporation, Macor, Inc., a California corporation,~~  
3     ~~Sunset Scavenger Company, a California corporation, and Norcal Waste Systems,~~  
4     ~~Inc., a California corporation (collectively, "Norcal together, "Seller" ) owns~~ certain real  
5     property adjacent to the Little Hollywood Park (a City owned neighborhood park), a  
6     portion of which consists of approximately 35,250 square feet, as shown in Record of  
7     Survey Number 4778, and more particularly described in the legal description  
8     attached to such map (the "~~Norcal~~Seller Property") and which is currently leased to  
9     the City for use in conjunction with Little Hollywood Park. A copy of such map and  
10    accompanying legal description are on file with the Clerk of the Board of Supervisors  
11    in File No. \_\_\_\_\_ 081509 and are incorporated herein by reference.

12           C.     ~~Norcal~~Seller wishes to acquire the City Property to add to the  
13    working area of its company headquarters adjacent thereto (the "~~Norcal~~Seller  
14    Headquarters Property"). In exchange for the City Property, ~~Norcal~~Seller proposes to  
15    transfer the ~~Norcal~~Seller Property to City, which is currently leased to the City and  
16    used as an extension of property owned by City and commonly known as Little  
17    Hollywood Park. If acquired, the ~~Norcal~~Seller Property would become a part of Little  
18    Hollywood Park under the jurisdiction of the City's Recreation and Park Department.

19           D.     The City proposes to convey the City Property to ~~Norcal~~Seller in  
20    exchange for the ~~Norcal~~Seller Property, with such exchange conditioned on the  
21    matters substantially as shown in the Agreement for the Exchange and Conveyance of  
22    Real Estate between the City and ~~Norcal~~Seller dated \_\_\_\_\_ November  
23    2009, a copy of which is on file with the Clerk of the Board of Supervisors under File  
24    No. \_\_\_\_\_ 081509 (the "Exchange Agreement") and is incorporated herein  
25    by reference.

1 E. City must vacate the City Property prior to any such transfer  
2 pursuant to the Transfer Agreement, as further specified in the Exchange Agreement.

3 F. The Director of Planning, by letter dated January 27, 2006, found  
4 that the vacation of the City Property (which is half the width of Channel Street,  
5 leaving a portion to serve as a public street and greenway) and the subsequent  
6 exchange of the City Property and the ~~Noneal~~Seller Property are categorically exempt  
7 from environmental review and are in conformance with the City's General Plan. Said  
8 letter is on file with Clerk of the Board of Supervisors under File No. \_\_\_\_\_  
9 081509 and is incorporated herein by reference.

10 G. The Department of Public Works has advised the Real Estate  
11 Division that there are no in-place public utility facilities in use on the City Property that  
12 would be affected by the vacation of the City Property.

13 H. Section 8334 of the California Streets and Highways Code  
14 provides that the legislative body of a local agency may summarily vacate an excess  
15 right-of-way of a street or highway not required for street or highway purposes under  
16 certain circumstances. In particular, Section 8334 provides that the legislative body of  
17 a local agency may summarily vacate a portion of a public street if the street vacation  
18 area is no longer needed for street or highway purposes. In addition, Section 8334.5  
19 of the California Streets and Highways Code requires for a summary vacation that  
20 there are no in-place public utility facilities that are in use and would be affected by the  
21 vacation. As set forth above, the City Property qualifies for a summary street vacation  
22 process in accordance with the terms of the California Streets and Highways Code.

23 I. The ~~Noneal~~Seller Headquarters Property is the only property that  
24 fronts on the City Property.

1           J.     ~~Noreal~~Seller and City agree that for purposes of the Exchange,  
2 the fair market value for the City Property shall be deemed to be ~~\$3,100,000~~  
3 \$2,200,000 and that the fair market value for the ~~Noreal~~Seller Property shall be  
4 deemed to be ~~\$2,700,000~~ \$1,800,000.

5           K.     Subject to the terms and conditions in the Exchange Agreement  
6 and the effective date of the summary vacation procedure, at closing, ~~Noreal~~Seller  
7 agrees to convey the ~~Noreal~~Seller Property and deliver a payment of \$400,000 to City  
8 and City agrees to convey the vacated City Property to ~~Noreal~~Seller (the "Exchange").

9           L.     In accordance with California Streets and Highways Code  
10 Sections 892 and 8314, the portion of the right-of-way proposed for vacation is no  
11 longer useful as a nonmotorized transportation facility, as defined in Section 887,  
12 because portions of Channel Street will remain available to pedestrians and bicyclists.

13           Section 2. The public convenience and necessity require that no easements or  
14 other rights be reserved for any public utility facilities and that any rights based upon  
15 any such public utility facilities shall be extinguished automatically upon the  
16 effectiveness of the vacation of the City Property hereunder.

17           Section 3. The public interest and convenience require that the vacation of the  
18 City Property be done as declared in this Ordinance.

19           Section 4. The Board of Supervisors adopts as its own and incorporates by  
20 reference as though fully set forth the findings of the City Planning Department in the  
21 Director of Planning's aforementioned letter that the proposed vacation of the City  
22 Property and exchange of the City Property for the ~~Noreal~~Seller Property is  
23 categorically exempt from environmental review under the California Environmental  
24 Quality Act and is in conformity with the General Plan and with the Eight Priority  
25 Policies of Section 101.1 of the Planning Code.

1           Section 5. Pursuant to California Streets and Highways Code Sections 8330 *et*  
2 *seq.* (Public Streets, Highways, and Service Easement Vacation Law, Summary  
3 Vacation) and Section 787 of the San Francisco Public Works Code, the City Property  
4 is hereby ordered summarily vacated in the manner described in this Ordinance,  
5 subject to and effective upon the satisfaction of the following condition: the City shall  
6 have determined that all of the conditions precedent to the City's conveyance of the  
7 City Property to ~~Not a~~ Seller under the Exchange Agreement (other than the  
8 effectiveness of this Ordinance) have been satisfied or waived by the City pursuant  
9 thereto; and upon the satisfaction of such conditions (as conclusively evidenced by a  
10 letter from the Director of Property, or his or her designee, that such conditions have  
11 been satisfied, including the satisfaction of such conditions through an escrow  
12 established for the Exchange pursuant to the Exchange Agreement), the Clerk of the  
13 Board of Supervisors and the Director of Property shall be authorized and the Clerk  
14 shall be directed to record or cause to be recorded a certified copy of the Ordinance  
15 ordering such vacation of the City Property as provided in Section 8335(a) of the  
16 California Streets and Highways Code, and thereupon such vacation shall be effective  
17 without any further action by the Board of Supervisors. Furthermore, from and after  
18 the date this Ordinance is recorded, the City Property will no longer constitute a public  
19 street.

20           Section 6. The Department of Public Works shall ~~hereby~~ receives the \$400,000  
21 generated by the exchange of property for deposit into its ~~their~~ Real Property Fund.

22           Section 7. The Recreation and Park Department ~~is anticipating passing~~ its  
23 Resolution No. \_\_\_\_\_ 0911-009 on November 5, 2009, recommending  
24 that the Board of Supervisors approve ~~ing~~ the Exchange Agreement. Said Resolution  
25

1 is on file with Clerk of the Board of Supervisors under File No.  
2 081509 and is incorporated herein by reference.

3 Section 8. The Director of Property is hereby authorized to enter into the  
4 Exchange Agreement and is hereby authorized and directed to do any and all things  
5 to execute and deliver the Exchange Agreement, ~~including making minor technical~~  
6 ~~adjustments,~~ and all other documents with respect to the Exchange Agreement which  
7 the Director of Property ~~or determines, in consultation with the City Attorney,~~ are in the  
8 best interest of the City, including any modifications or amendments to the ~~may deem~~  
9 ~~necessary or achievable to effectuate the purpose or intent of the Exchange~~  
10 Agreement that do not materially increase the obligations or liabilities of the City, are  
11 necessary or advisable to consummate the transactions contemplated in the  
12 Exchange Agreement or the performance of the purposes of this Ordinance, and are  
13 in compliance with all applicable laws, including City's Charter.

14 Section 9. The Mayor, Clerk of the Board, Director of Property, and Director  
15 of Public Works are hereby authorized and directed to take any and all actions which  
16 they or the City Attorney may deem necessary or advisable in order to effectuate the  
17 purpose and intent of this Ordinance (including, without limitation, confirmation of  
18 satisfaction of any of the conditions to the effectiveness of the vacation of the City  
19 Property herein and the consummation of the Exchange in accordance with the  
20 Exchange Agreement).

21  
22 RECOMMENDED:

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24 \_\_\_\_\_  
25 Amy L. Brown  
Director of Property

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Edward D. Reiskin  
Director of Public Works

APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

By: \_\_\_\_\_  
Carol Wong  
Deputy City Attorney