

1 [Lease of City Property - Our Planet Recycling SF, LLC - Assessor's Parcel Block No. 5695,
2 Lot No. 23 at Alemany Boulevard - Annual Base Rent of \$23,397.96]

3 **Resolution authorizing and approving the Lease of City-owned real property located at**
4 **Assessor's Parcel Block No. 5695, Lot No. 23, adjacent to Alemany Boulevard in San**
5 **Francisco, with Our Planet Recycling SF, LLC, a California corporation, doing business**
6 **as Our Planet Recycling, for an initial five-year term at an annual base rent of**
7 **\$23,397.96 (or the monthly amount of \$1,949.83); plus 3% annual increases to base**
8 **rent; plus one additional five-year extension option to further extend the term of the**
9 **Lease, subject to satisfaction of certain conditions and to be readjusted to then-fair**
10 **market base rent; effective upon approval of this Resolution; finding the proposed**
11 **transaction is in conformance with the General Plan, and the eight priority policies of**
12 **Planning Code, Section 101.1; adopting California Environmental Quality Act (CEQA)**
13 **findings; and to authorize the Director of Property to enter into amendments or**
14 **modifications to the Lease that do not materially increase the obligations or liabilities**
15 **to the City and are necessary to effectuate the purposes of the Lease or this**
16 **Resolution.**

17
18 WHEREAS, The City and County of San Francisco ("City") owns real property at
19 Assessor's Parcel Block No. 5695, Lot No. 23, adjacent to right-of-way and Alemany
20 Boulevard (the "Premises") near the Alemany Farmers' Market at Peralta and Tompkins
21 Avenues; and

22 WHEREAS, On August 24, 2017, the Public Works Department ("PW") approved a
23 Minor Sidewalk Encroachment Permit permitting Our Planet Recycling SF, LLC, ("Tenant") to
24 occupy a portion of PW's vacant right-of-way adjacent to Alemany Boulevard and Assessor's
25 Parcel Block No. 5695, Lot No. 23; and

1 WHEREAS, On November 17, 2017, the City entered into a year-to-year lease with
2 Tenant for the Premises to use in relation to its recycling business on a nearby CalTrans'
3 parcel on Bayshore Boulevard for employee parking and inventory storage, at an annual base
4 rent of \$15,300 per year (\$1,275 per month), plus 3% annual increases to base rent; and

5 WHEREAS, The City, through its Real Estate Division, with consultation from the Office
6 of the City Attorney, and Tenant have negotiated the proposed lease ("Lease"), which
7 provides a base rent of \$23,397.96 per year (\$1,949.37 per month), plus an annual increase
8 of 3%, a copy of the Lease is on file with the Clerk of the Board in File No. 230914; and

9 WHEREAS, Tenant will be responsible for providing, at Tenant's cost, any required
10 services and utilities on the Premises; and

11 WHEREAS, During the term, Tenant shall be required to continue to maintain a valid
12 Minor Sidewalk Encroachment Permit from PW and Conditional Use Authorization (No. 2021-
13 007063CUA); and

14 WHEREAS, The initial term of the Lease shall be for five years, commencing upon
15 approval by the Board of Supervisors and Mayor; and

16 WHEREAS, Under the proposed Lease, the City grants Tenant an option to extend the
17 initial term by an additional five years, subject to conditions being met as prescribed under the
18 Lease, with rent to be re-established at the then-fair market rental value as of the exercise
19 date of the option, continuing to be subject to three-percent annual increases; and

20 WHEREAS, On July 13, 2023, the Planning Commission approved a Conditional Use
21 Authorization, Record No. 2021-007063CUA, by Motion No. 21351, a copy of which is on file
22 with the Clerk of the Board of Supervisors under File No. 230914, and has verified that the
23 Lease is consistent with the General Plan, and the eight priority policies under Planning Code,
24 Section 101.1, and that the project was determined to be exempt under CEQA, Class 3; now,
25 therefore, be it

1 RESOLVED, That the Board of Supervisors finds the Lease is consistent with the
2 General Plan, and the eight priority policies of Planning Code, Section 101.1 and adopts
3 CEQA findings and hereby incorporates such findings by reference as though fully set forth in
4 this Resolution: and, be it

5 FURTHER RESOLVED, In accordance with the recommendation of the Director of
6 Property and the City Attorney, the Director of Property on behalf of the City, as Landlord, is
7 hereby authorized to take all actions necessary to execute the Lease at Assessor's Parcel
8 Block No. 5695, Lot No. 23, in San Francisco, at a base rent of \$23,397.96 per year, with an
9 annual base rent escalation of 3%, for an initial five-year term, plus one five-year option to
10 extend; and, be it

11 FURTHER RESOLVED, The Board of Supervisors approves the Lease in substantially
12 the form in the Board's File and authorizes the Director of Property to take all actions, on
13 behalf of the City to enter into any additions, amendments or other modifications (including
14 without limitation, the exhibits) to the Lease that the Director of Property determines, in
15 consultation with the City Attorney, are in the best interests of the City, do not materially
16 increase the obligations or liabilities of the City, and are necessary or advisable to complete
17 the transaction and effectuate the purpose and intent of this Resolution and are in compliance
18 with all applicable laws, including City's Charter; and, be it

19 FURTHER RESOLVED, That the Lease contains language indemnifying and holding
20 harmless the City from, and agreeing to defend the City against any and all claims, costs and
21 expenses, including, without limitation, reasonable attorney's fees, incurred as a result of
22 Tenant's use of the Premises, any default by the Tenant in the performance of any of its
23 obligations under the Lease or any acts or omissions of Tenant or its agents, in, on or about
24 the Premises or the property on which the Premises are located, except those claims, costs
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1 and expenses incurred exclusively as a result of active gross negligence or willful misconduct
2 of City or its agents; and, be it

3 FURTHER RESOLVED, Due to the existing Minor Sidewalk Encroachment Permit
4 issued to and maintained by the Tenant on the adjacent property, it is impractical to
5 competitively bid the use of the Premises to anyone other than the Tenant, especially given
6 the limited size of the Premises; and, be it

7 FURTHER RESOLVED, Because Tenant is a successful local small business, and
8 Tenant has storage on the Premises related to said business, and if not leased to the Tenant,
9 Tenant would then remove said storage and improvements from the Premises economically
10 damaging the related recycling center, approving this Lease with Tenant is determined to be
11 necessary and promote a public benefit; and, be it

12 FURTHER RESOLVED, That any action taken by the Director of Property and other
13 officers of the City with respect to the Lease are hereby approved, confirmed and ratified; and,
14 be it

15 FURTHER RESOLVED, That within thirty (30) days of the agreement being fully
16 executed by all parties, the Director of Real Estate shall provide the agreement to the Clerk of
17 the Board for inclusion into the official file.

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19 RECOMMENDED:

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21 /s/ _____
22 Andrico Q. Penick
23 Director of Real Estate

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