

1 [Real Property Lease Amendment - Orchard Supply Company, LLC - San Francisco Utilities
2 Commission Parcel No. 29 in Millbrae, CA - \$460,673]

3 **Resolution authorizing the amendment of Orchard Supply Company, LLC’s lease of**
4 **property from the City and County of San Francisco, to reduce the size of the leased**
5 **premises to accommodate the San Francisco Public Utilities Commission (SFPUC)**
6 **Regional Groundwater Storage and Recovery Project, Project No. CUW30103, in**
7 **consideration of City’s payment of \$460,673; adopting environmental findings under**
8 **the California Environmental Quality Act (CEQA), CEQA Guidelines, and Administrative**
9 **Code, Chapter 31; adopting findings of consistency with the General Plan, and eight**
10 **priority policies of Planning Code, Section 101.1; and authorizing the Director of**
11 **Property and/or the SFPUC General Manager to execute documents, make certain**
12 **modifications, and take certain actions in furtherance of this Resolution.**

13
14 WHEREAS, The City and County of San Francisco (“City”) owns in fee certain real
15 property in Millbrae, California, under the jurisdiction of the San Francisco Public Utilities
16 Commission (“SFPUC”) designated as SFPUC Parcel No. 29, and also known as San Mateo
17 County APN 093-220-0101; and

18 WHEREAS, The City, acting through the SFPUC, entered into a Ground Lease dated
19 April 26, 1984 (the “Lease”) with the predecessor of Orchard Supply Company, LLC
20 (“Tenant”) for the lease of a portion of such property consisting of approximately 4.7505 acres
21 of land commonly known as 900 El Camino Real, Millbrae (the “Premises”) for an initial term
22 of 30 years, with two options to extend for periods of 10 years each; and

1 WHEREAS, Tenant exercised the first option to extend the term of the Lease for 10
2 years, commencing on May 1, 2014, at an annual rent of \$1,117,432, subject to rental
3 adjustment on May 1, 2019, in accordance with the Lease; and

4 WHEREAS, The SFPUC has developed and approved the Regional Groundwater
5 Storage and Recovery Project (“Project”), Project No. CUW30103, a capital improvement
6 project included as part of the Water System Improvement Program (“WSIP”), with the
7 primary purpose of providing additional dry-year regional water supply capacity; and

8 WHEREAS, The Project is located in the County of San Mateo and its completion
9 would help the SFPUC achieve the WSIP Level of Service goal for Water Supply adopted by
10 the SFPUC in Resolution No. 08-200; and

11 WHEREAS, An Environmental Impact Report (“EIR”) as required by the California
12 Environmental Quality Act (“CEQA”) was prepared for the Project by the San Francisco
13 Planning Department, File No. 2008.1396E; and

14 WHEREAS, The San Francisco Planning Commission on August 7, 2014 1) certified
15 the Final EIR (“FEIR”) for the Project by Motion No. M-19209; 2) adopted findings under
16 CEQA, including the adoption of a Mitigation Monitoring and Reporting Program (“MMRP”)
17 and a statement of overriding considerations (“CEQA Findings”) by Motion No. M-19210;
18 and 3) found the Project consistent with the General Plan, and eight priority policies of
19 Planning Code, Section 101.1 (“General Plan Findings”) by Motion No. M-19211, a copy of
20 the motions is on file with the Clerk of the Board of Supervisors under File No. 150616,
21 which is incorporated herein by this reference; and

22 WHEREAS, The Board of Supervisors on October 28, 2014, adopted Resolution No.
23 400-14, which included the adoption of CEQA Findings and the adoption of the San
24 Francisco Planning Commission’s General Plan Findings for the Project; a copy of which is
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1 on file with the Clerk of Board of Supervisors under File No. 140945, which is incorporated
2 herein by this reference; and

3 WHEREAS, Implementation of the Project requires that the City amend the Lease to
4 recover permanent possession of a portion of the Premises for construction of Project
5 improvements and temporary possession of portions of the Premises for construction staging
6 and installation of utility lines; and

7 WHEREAS, SFPUC staff, through consultation with the Office of the City Attorney and
8 the Director of Property, have negotiated with Tenant a proposed First Amendment to Ground
9 Lease (“Lease Amendment”), a copy of which is on file with the Clerk of the Board of
10 Supervisors under File No. 160711, which is incorporated herein by this reference, by which
11 City would pay Tenant the sum of \$460,673 as compensation for the necessary permanent
12 and temporary modifications of the Premises, subject to additional payments if City extends
13 the periods of temporary possession, all of which is pursuant to an approved appraisal report
14 dated January 9, 2015; and

15 WHEREAS, On August 12, 2014, by SFPUC Resolution No. 14-0127, a copy of which
16 is on file with the Clerk of the Board of Supervisors under File No. 140945, which is
17 incorporated herein by this reference, SFPUC adopted CEQA Findings, approved the Project,
18 and authorized the SFPUC General Manager and/or the Director of Property to undertake the
19 process to acquire possession of the needed portions of the Premises, and, following Board of
20 Supervisors approval of the necessary lease amendment, to accept and execute the lease
21 amendment and any other related documents necessary to consummate the transactions
22 contemplated therein, in form approved by the City Attorney; and

23 WHEREAS, San Francisco Charter, Section 8B.121(a) grants the SFPUC Commission
24 the exclusive charge of the real property assets under the Commission’s jurisdiction, and
25 Charter Section 9.118(c) requires that any amendment of any City lease of real property

1 having a term of ten or more years be approved by resolution of the Board of Supervisors;
2 and

3 WHEREAS, The Project files, including SFPUC Resolution Nos. 08-200 and 14-0127
4 and San Francisco Planning Department File No. 2008.1396E have been made available
5 for review by the Board of Supervisors and the public, and those files are considered part of
6 the record before this Board; and

7 WHEREAS, The Board of Supervisors has reviewed and considered the information
8 contained in the FEIR, and the CEQA Findings, including all written and oral information
9 provided by the Planning Department, the public, relevant public agencies, the SFPUC and
10 other experts and the administrative files for the Project; now, therefore, be it

11 RESOLVED, The Board of Supervisors, having reviewed and considered the FEIR
12 and record as a whole, finds that the proposed Lease Amendment is within the scope of the
13 Project analyzed in the FEIR and previously approved by the San Francisco Planning
14 Commission, the SFPUC, and the Board of Supervisors; and, be it

15 FURTHER RESOLVED, The Board finds that the FEIR is adequate for its use as the
16 decision-making body for approval of the Lease Amendment and hereby incorporates by
17 reference the CEQA Findings made in Resolution No. 400-14, Board File No. 140945
18 concerning the Project; and, be it

19 FURTHER RESOLVED, The Board further finds that since the FEIR was finalized,
20 there have been no substantial Project changes and no substantial changes in Project
21 circumstances that would require major revisions to the FEIR due to the involvement of
22 new significant environmental effects or an increase in the severity of previously identified
23 significant impacts, and there is no new information of substantial importance that would
24 change the conclusions set forth in the FEIR; and, be it

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1 FURTHER RESOLVED, The Board of Supervisors hereby incorporates by reference
2 the General Plan Findings made in Resolution No. 400-14, Board File No. 140945
3 concerning the Project; and, be it

4 FURTHER RESOLVED, That in accordance with the recommendations of the
5 SFPUC General Manager and the Director of Property, the Board of Supervisors hereby
6 approves the Lease Amendment and the transaction contemplated thereby in substantially
7 the form of such instrument presented to this Board; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
9 Property and/or the SFPUC's General Manager to enter into any additions, amendments,
10 or other modifications to the Lease Amendment (including, without limitation, the attached
11 exhibits) that the Director of Property and/or the SFPUC's General Manager determines are
12 in the best interest of the City, do not materially increase the obligations or liabilities of the
13 City or materially diminish the benefits to the City, and are necessary or advisable to
14 complete the transaction contemplated in the Lease Amendment and effectuate the
15 purpose and intent of this resolution, such determination to be conclusively evidenced by
16 the execution and delivery by the Director of Property or the SFPUC's General Manager of
17 the Lease Amendment and any amendments thereto; and, be it

18 FURTHER RESOLVED, That the Director of Property and/or the General Manager
19 of the SFPUC are hereby authorized and urged, in the name and on behalf of the City and
20 County, to execute and deliver the Lease Amendment with Tenant, in substantially the form
21 of such instrument presented to this Board, and to take any and all steps (including, but not
22 limited to, the execution and delivery of any and all certificates, agreements, notices,
23 consents, and other instruments or documents) as the Director of Property or SFPUC
24 General Manager deems necessary or appropriate in order to consummate the modification
25 of the Premises pursuant to the Lease Amendment, or to otherwise effectuate the purpose

1 and intent of this Resolution, such determination to be conclusively evidenced by the
2 execution and delivery by the Director of Property or SFPUC General Manager of any such
3 documents.

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\$460,673.00 available
Index Code: 730150

Controller

RECOMMENDED:

Director of Property
Real Estate Division

RECOMMENDED:

General Manager
San Francisco Public Utilities Commission