

1 [Real Property Lease Amendment - Mission Valley Rock, Co. - Sunol, California - \$29,700]

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3 **Resolution authorizing the amendment of Mission Valley Rock, Co.’s lease of property**
4 **from the City and County of San Francisco, to reduce the size of the leased premises to**
5 **accommodate the San Francisco Public Utilities Commission (SFPUC) Sunol Long**
6 **Term Improvements Project, Project No. CUW27701, in consideration of City’s payment**
7 **of \$29,700 and reimbursement of certain expenses; adopting environmental findings**
8 **under the California Environmental Quality Act (CEQA), CEQA Guidelines, and**
9 **Administrative Code Chapter 31; and authorizing the Director of Property and/or the**
10 **SFPUC General Manager to execute documents, make certain modifications, and take**
11 **certain actions in furtherance of this Resolution.**

12
13 WHEREAS, The City and County of San Francisco (“City”) owns in fee certain real
14 property in unincorporated Sunol, Alameda County, California, under the jurisdiction of the
15 San Francisco Public Utilities Commission (“SFPUC”) designated as SFPUC Parcel 65; and

16 WHEREAS, The City, acting through the SFPUC, entered into a Quarry Lease (the
17 “Lease”) dated September 26, 2000, with Mission Valley Rock, Co. (“MVR” or “Tenant”) for
18 the lease of a portion of such property consisting of approximately 242 acres of land, as
19 further described in the Lease (the “Premises”) for an initial 39-year term; and

20 WHEREAS, Alameda County (“County”) issued that certain Surface Mining Permit 32
21 (“SMP 32”) to MVR pursuant to the County’s Surface Mining and Reclamation Ordinance and,
22 in connection with SMP 32, MVR entered into a reclamation plan (the “Reclamation Plan”);
23 and

1 WHEREAS, The Premises include an agricultural/ noise/ air emissions buffer
2 (“Buffer Area”) around the existing quarry approved under SMP 32 and the Reclamation
3 Plan; and

4 WHEREAS, The SFPUC developed and approved the Sunol Long Term Improvements
5 Project No. CUW27701 (“Project”), a project involving the construction of a new Watershed
6 Center adjacent to the Sunol Water Temple, and the redevelopment of SFPUC’s existing
7 Sunol Corporate Yard; and

8 WHEREAS, A Final Mitigated Negative Declaration (“FMND”) as required by the
9 California Environmental Quality Act (“CEQA”) was prepared for the Project by the San
10 Francisco Planning Department, File No. 2012.0054E; and

11 WHEREAS, The San Francisco Planning Commission on December 2, 2015
12 certified the FMND for the Project, and adopted findings under CEQA, including the
13 adoption of a Mitigation Monitoring and Reporting Program (“MMRP”), together (the
14 “CEQA Findings”); and

15 WHEREAS, Implementation of the Project requires that the City amend the Lease to
16 modify the Premises as follows: (i) terminate the Lease with respect to the area needed for
17 the Watershed Center, and (ii) recover temporary possession of the portion of the Premises
18 needed for construction staging during the Project construction period; and

19 WHEREAS, SFPUC staff, through consultation with the Director of Property and the
20 Office of the City Attorney, have negotiated with Tenant a proposed First Amendment to
21 Quarry Lease (“Lease Amendment”), a copy of which is on file with the Clerk of the Board
22 of Supervisors under File No. 160743, which is incorporated herein by reference, by which
23 City would pay Tenant the sum of \$29,700 as compensation for the necessary permanent
24 and temporary modifications of the Premises, subject to additional payments of \$180 per
25

1 month if City extends the periods of temporary possession, all as determined by a staff
2 appraisal conducted in accordance with a methodology approved by an MAI appraiser; and

3 WHEREAS, The modification of the Premises necessitates that Tenant obtain an
4 amendment of the Reclamation Plan, and the proposed Lease Amendment provides that
5 Tenant will diligently seek such amendment and that City will pay certain costs incurred by
6 Tenant in connection with obtaining such Reclamation Plan amendment, subject to the terms
7 and conditions of a reimbursement agreement (“Reimbursement Agreement”), a copy of
8 which is on file with the Clerk of the Board of Supervisors under File No. 160743 and
9 incorporated herein by reference; and

10 WHEREAS, On December 8, 2015, by SFPUC Resolution No. 15-0264, a copy of
11 which is on file with the Clerk of the Board of Supervisors under File No. 160743, which is
12 incorporated herein by this reference, SFPUC adopted CEQA Findings, including adoption of
13 the MMRP, approved the Project, and authorized the SFPUC General Manager or his
14 designee to negotiate a lease amendment to acquire possession of the needed portions of the
15 Premises, for compensation to the Tenant not to exceed the fair market value of the deleted
16 premises, then estimated to be less than \$50,000, and the reimbursement of certain Tenant
17 expenses resulting from such lease amendment, and, if approved by the Board of Supervisors
18 and Mayor, to accept and execute the lease amendment, and any other related documents
19 necessary to consummate the transactions contemplated therein, as determined by the
20 General Manager in consultation with the SFPUC Real Estate Director and the City Attorney;
21 and

22 WHEREAS, Charter, Section 8B.121(a) grants the SFPUC the exclusive charge of the
23 real property assets under the Commission’s jurisdiction, and Charter, Section 9.118(c)
24 requires that any amendment of any City lease of real property having a term of ten or more
25 years be approved by resolution of the Board of Supervisors; and

1 WHEREAS, The Project files, including SFPUC Resolution No. 15-0264 and San
2 Francisco Planning Department File No. 2012.0054E have been made available for review by
3 the Board of Supervisors and the public, and are considered part of the record before this
4 Board; and

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

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

13 FURTHER RESOLVED, The Board finds that the FMND is adequate for its use as
14 the decision-making body for approval of the Lease Amendment and hereby incorporates
15 by reference the CEQA Findings made in SFPUC Resolution No. 15-0264, Board File No.
16 160743 concerning the Project; and, be it

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

23 FURTHER RESOLVED, That in accordance with the recommendations of the
24 SFPUC General Manager and the Director of Property, the Board of Supervisors hereby

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

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

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

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\$29,700 available
Index Code: 562772

Controller

RECOMMENDED:

Director of Property
Real Estate Division

RECOMMENDED:

General Manager
San Francisco Public Utilities Commission