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

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

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

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

WHEREAS, Alameda County ("County") issued that certain Surface Mining Permit 32 ("SMP 32") to MVR pursuant to the County's Surface Mining and Reclamation Ordinance and, in connection with SMP 32, MVR entered into a reclamation plan (the "Reclamation Plan"); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\$29,700 available Index Code: 562772

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RECOMMENDED:

Director of Property Real Estate Division

RECOMMENDED:

General Manager San Francisco Public Utilities Commission



City and County of San Francisco **Tails**

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

Resolution

File Number:

160743

Date Passed: July 26, 2016

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

July 20, 2016 Budget and Finance Sub-Committee - RECOMMENDED

July 26, 2016 Board of Supervisors - ADOPTED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Peskin, Tang, Wiener

and Yee

Absent: 1 - Mar

File No. 160743

I hereby certify that the foregoing Resolution was ADOPTED on 7/26/2016 by

the Board of Supervisors of the City and

County of San Francisco.

Clerk of the Board

Date Approved