

1 [Termination of Lease - Orchard Supply Company, LLC - 900 El Camino Real, Millbrae -
2 \$1,304,915]

3 **Resolution approving the terms and conditions of, and authorizing the General**
4 **Manager of the San Francisco Public Utilities Commission (SFPUC) to execute a**
5 **Termination of Lease between the City and County of San Francisco, through its Public**
6 **Utilities Commission, as Landlord, and Orchard Supply Company, LLC, as Tenant, for a**
7 **portion of SFPUC Parcel 29, representing approximately 4.438 acres of land in Millbrae,**
8 **California at a ground rental rate of approximately \$1,304,915 per year over the**
9 **remaining five-year term of the Lease, with a termination date of April 30, 2019.**

10
11 WHEREAS, The City and County of San Francisco (City) owns in fee certain real
12 property in Millbrae, California, under the jurisdiction of the San Francisco Public Utilities
13 Commission (SFPUC) designated as SFPUC Parcel 29, and also known as San Mateo
14 County APN 093-220-0101; and

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

20 WHEREAS, Tenant exercised the first option to extend the term of the Lease for 10
21 years, commencing on May 1, 2014, at an annual rent of \$1,117,432 subject to a CPI
22 adjustment on May 1, 2019, which is anticipated to increase the rent to an estimated
23 \$1,304,915 for the remainder of the Lease term; and

24 WHEREAS, The City and Tenant entered into a First Amendment to Ground Lease
25 dated August 4, 2016 (the "First Amendment") that reduced the size of the Premises by

1 13,623 square feet to accommodate the SFPUC's new groundwater storage and pump station
2 facility located on the Premises; and

3 WHEREAS, Total lost rent from the early termination of the lease is approximately
4 \$6,525,000; and

5 WHEREAS, Tenant has constructed substantial improvements on the Premises
6 including a retail store, warehouse, and restaurant; and

7 WHEREAS, Under the terms of the Lease, all of Tenant's improvements to the
8 Premises become the property, of the SFPUC upon early termination of the Lease, at
9 SFPUC's option; and

10 WHEREAS, Tenant desires to terminate the Lease and surrender the Premises as of
11 April 30, 2019; and

12 WHEREAS, The SFPUC desires to terminate the Lease and gain possession of the
13 Premises as of April 30, 2019; and

14 WHEREAS, The early termination of the Lease is expected to result in the following
15 significant utility benefits to the SFPUC: (i) the SFPUC will be able to use an existing
16 warehouse on the Premises as additional Utility Plumbers storage and workshop space, and
17 other storage to serve workers displaced by unsafe conditions at the old Utility Plumbers
18 shop, and thereby save the estimated costs (approximately \$1.3 million) of constructing a new
19 warehouse at its Millbrae Yard; (ii) future rent from a lease of the remaining lands and
20 improvements that will not be used for a new Utility Plumbers storage facility and workshop
21 (Remaining Premises) is expected to significantly exceed the lost ground rent because
22 Tenant's improvements will become the property of the SFPUC upon termination, enabling
23 the SFPUC to re-lease the Remaining Premises at full market rental rates, as opposed to the
24 current CPI-adjusted ground rent Tenant will pay over the remaining term of the Lease; (iii)
25 the SFPUC will benefit from the full retail rental income from the leasing of a restaurant

1 located on the Remaining Premises (under the terms of the Lease, the SFPUC does not
2 share in this sublease rent, currently estimated at \$150,000 per year); and (iv) termination of
3 the Lease will provide the SFPUC with greater flexibility to address persistent pedestrian
4 safety issues on El Camino posed by the current configuration of the driveway shared by both
5 the SFPUC's Millbrae Yard and Tenant; and

6 WHEREAS, The utility benefits from the early termination are projected to exceed the
7 total lost ground rent resulting from the early termination; and

8 WHEREAS, On January 22, 2019, the San Francisco Public Utilities Commission voted
9 to ratify, approve and authorize all actions heretofore taken by any City official in connection
10 with this Termination Agreement, approve the terms and conditions of this Termination
11 Agreement, and authorize the SFPUC to seek approval by the Board of Supervisors and
12 Mayor for the SFPUC General Manager to execute the Termination Agreement; now,
13 therefore, be it

14 RESOLVED, That the Board of Supervisors hereby ratifies, approves and authorizes all
15 actions heretofore taken by any City official in connection with this Termination Agreement;
16 and, be it

17 FURTHER RESOLVED, That the Board of Supervisors hereby approves the terms and
18 conditions of this Termination Agreement; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the SFPUC
20 General Manager to enter into any amendments or modifications to this Termination
21 Agreement, including without limitation, the exhibits, that the General Manager determines, in
22 consultation with the City Attorney, are in the best interest of the City; do not materially
23 increase the obligations or liabilities of the City; are necessary or advisable to effectuate the
24 purposes and intent of the Termination Agreement or this resolution; and are in compliance
25 with all applicable laws, including the City Charter.