Resolution authorizing the General Manager of the San Francisco Public Utilities Commission (SFPUC) to negotiate and execute, on behalf of the City acting through SFPUC, as landlord, a 25-year lease to Mission Valley Rock, Co., as tenant, of approximately 199 acres of SFPUC Parcel Nos. 62 and 65 in Sunol, California for water use and management, aggregate conveyance, overburden and fines placement, and reclamation, for an initial annual rental rate of $60,000, plus 4% annual rent increases.

WHEREAS, The City and County of San Francisco (City) owns certain real property under the jurisdiction the SFPUC, commonly known as SFPUC Parcels 62 and 65 located in Sunol, California; and

WHEREAS, City and Mission Valley Rock Co, a California corporation (Tenant) entered into a lease agreement dated January 10, 1978, (First MVR Lease), as amended, for Tenant's use of approximately 30 acres of SFPUC Parcel 62 and approximately 18.33 acres of SFPUC Parcel 65 (together, the “First MVR Lease Premises”) as a quarry; and

WHEREAS, Extraction of sand and gravel in the First MVR Lease Premises ceased prior to the expiration of the First MVR Lease on January 9, 1998, and is in holdover status; and

WHEREAS, While in holdover status, Tenant has continued to use the First MVR Lease Premises to use and recycle water for aggregate processing at its nearby plant, and for placement of overburden and fines generated by its nearby quarry operations; and

WHEREAS, City and Tenant are parties to a lease agreement dated June 20, 1985, (Second MVR Lease) for Tenant's use of approximately 135 acres of SFPUC Parcel 65 for its mining operations (Second MVR Lease Premises); and
WHEREAS, Extraction of sand and gravel on the Second MVR Lease Premises was completed in July of 2006; and

WHEREAS, The Second MVR Lease expired on October 31, 2012, and is in holdover status while the Tenant has continued to manage three ponds (respectively, Pond F2, Pond F3 West, and Pond F3 East) located on the Second MVR Lease Premises; and

WHEREAS, Tenant uses Pond F2 and Pond F3 West for purposes of providing water supplies for process water in dry years, irrigation and dust control in connection with its quarry operations under Alameda County Surface Mining Permit No. 32 (SMP 32); and

WHEREAS, City and Tenant entered into a Water Management Agreement dated August 23, 2013, pursuant to which Tenant manages the water elevation in Pond F3 East on the Second MVR Lease Premises for the benefit of the SFPUC in relation to the operation of the San Antonio Backup Pipeline; and

WHEREAS, Mining and related operation on the First and Second MVR Lease Premises are subject to the terms and conditions of the existing Surface Mining Permit 24 (SMP 24), issued to Tenant by the Alameda County Community Development Agency pursuant to the Alameda County Surface Mining Ordinance; and

WHEREAS, Tenant and City are also parties to a lease dated September 26, 2000, (Third MVR Lease) for Tenant’s use of approximately 242 acres of land adjacent to the Second MVR Lease Premises, pursuant to which Tenant extracts sand and gravel under the terms of SMP 32; and

WHEREAS, Tenant has continued to operate its conveyor system on another portion of SFPUC Parcel 65 (Conveyor Site) under a license provided in the Third MVR Lease, to move aggregate material from its Third MVR Lease Premises to Tenant’s processing plant located on property owned by MVR; and
WHEREAS, On November 20, 2000, by Board of Supervisors Resolution No. 1000-00, this Board approves the Third MVR Lease; and

WHEREAS, The Third MVR Lease will expire on October 31, 2040; and

WHEREAS, MVR requires continued access to water in Pond F2 and Pond F3 West, on the Second MRV Lease Premises to facilitate its Third MVR Lease Premises quarry operations; and

WHEREAS, If the proposed new lease is not approved, the SFPUC risks losing approximately $1,100,000 in annual revenue if MVR ceases operations on the Third MVR Lease Premises; and

WHEREAS, City desires to enter into a new lease with Tenant in substantially the form on file with the Clerk of the Board of Supervisors in File No. 150755 (2015 Lease) to allow Tenant to continue its use of the First and Second MVR Lease Premises for water use and recycling, water management, overburden and fines placement, and final site reclamation, and to use the Conveyor Site for moving aggregate material from the Third MVR Lease Premises to Tenant’s property, for an annual rental rate of $60,000, with four percent annual rent increases; and

WHEREAS, On June 23, 2015, by Resolution No. 15-0150, the SFPUC approved the 2015 Lease with Mission Valley Rock Co; and

WHEREAS, The SFPUC has reviewed the actions to be carried out under the lease and has determined that the indirect effects of SFPUC’s issuance of the lease are within the scope of the County’s 2002 Mitigated Negative Declaration (MND) approval and subsequent periodic reviews and the issuance of the lease would not alter the previously-approved operations, nor would it extend the life of the quarry operation beyond the term of SMP-24; and
WHEREAS, The SFPUC finds that the County’s 2002 MND and Resolution are adequate for SFPUC’s use in approving the lease; and

WHEREAS, Since the County certified the 2002 MND and approved the SMP 24 amendment, there have been no substantial changes in operations under SMP 24 or changes in circumstances that would result in 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 MND and subsequent reviews conducted by County of Alameda; and

WHEREAS, The County’s 2002 MND identified significant impacts from the amended SMP 24 operation and adopted mitigation measures, the implementation of which, in each case, reduces the impact to a less-than significant level; and

WHEREAS, These measures were adopted as conditions of approval for the SMP 24 amendment in the County’s Resolution No. 02-19 and have been monitored through the County’s periodic reviews; and

WHEREAS, The SFPUC has no direct authority or responsibility with respect to the implementation of these measures or conditions of approval, which are wholly within the responsibility and jurisdiction of the County of Alameda, other than the SFPUC authorization, at the Project Sponsor’s request, to approve the ground lease to enable the Project Sponsor to conduct mining operations on the leased land as permitted under the terms of Alameda County’s Surface Mining Permit Number 24; now, therefore, be it

RESOLVED, That the Board of Supervisors hereby ratifies, approves and authorizes all actions heretofore taken by any City official in connection with the 2015 Lease; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby approves the terms and conditions of the 2015 Lease; and be it
FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and directs the SFPUC General Manager to negotiate and execute the 2015 Lease; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the SFPUC General Manager to enter into any amendments or modifications to the 2015 Lease, including without limitation, the exhibits that the General Manager determines in consultation with the City Attorney, are in the best interest of the City; do not materially increase the obligations or liabilities of the City; are necessary or advisable to effectuate the purposes and intent of the 2015 Lease or this resolution; and are in compliance with all applicable laws, including the City Charter; and, be it

FURTHER RESOLVED, That within thirty (30) days of the execution of the Lease being executed by all parties the SFPUC shall provide the final Lease to the Clerk of the Board for inclusion into the official file.
Resolution authorizing the General Manager of the San Francisco Public Utilities Commission (SFPUC) to negotiate and execute, on behalf of the City acting through SFPUC, as landlord, a 25-year lease to Mission Valley Rock, Co., as tenant, of approximately 199 acres of SFPUC Parcel Nos. 62 and 65 in Sunol, California for water use and management, aggregate conveyance, overburden and fines placement, and reclamation, for an initial annual rental rate of $60,000, plus 4% annual rent increases.

September 09, 2015 Budget and Finance Committee - RECOMMENDED

September 15, 2015 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

I hereby certify that the foregoing Resolution was ADOPTED on 9/15/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Date Approved
9/23/15