

1 [Approval of Sustainable Crushing Ventures, LLC Lease]

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3 **Approving Port Commission Lease No. L-14705 with Sustainable Crushing Ventures,**
4 **LLC, for a five (5) year term with a five (5) year extension option for certain real**
5 **property located at Pier 94, Seawall Lot 352 in the City and County of San Francisco.**
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7 WHEREAS, California Statutes of 1968, Chapter 1333 (the "Burton Act") and the San
8 Francisco Charter Section B3.581 empower the San Francisco Port Commission with the
9 power and duty to use, conduct, operate, maintain, manage, regulate and control the lands
10 within Port Commission jurisdiction; and

11 WHEREAS, Section B 3.581(g) of the Charter of the City and County of San Francisco
12 provides that leases granted and made by the Port Commission should be administered
13 exclusively by the operating forces of the Port Commission; and

14 WHEREAS, San Francisco Charter Section 9.118 requires Board of Supervisors
15 approval of any leases having a term of ten (10) or more years or having anticipated revenue
16 to the City of One Million Dollars (\$1,000,000) or more; and

17 WHEREAS, The policy of the Board of Supervisors, as set forth in Administrative Code
18 Section 23.33, is to approve only proposed leases involving property or facilities of the City
19 that have been awarded to the highest responsible bidders in accordance with the competitive
20 bidding procedures, except where impractical or impossible; and

21 WHEREAS, The Board of Supervisors by Ordinance No. 183-06 authorized the Port to
22 award a contract, without competitive solicitation, for the crushing, removal, and/or disposal of
23 approximately 120,000 tons of debris and/or contaminated soils ("Existing Stockpile") on Pier
24 94, Seawall Lot 352 ("SWL 352"), which had been abandoned at the site by a former Port
25 tenant operating a construction materials recycling facility under Port Lease No. L-12831; and

1 WHEREAS, On October 11, 2007, the Port Commission authorized Port staff to issue a
2 request for proposals ("RFP") for a leasing opportunity at Pier 94, Seawall Lot ("SWL") 352, to
3 operate a construction materials recycling facility specializing in processing of demolition
4 concrete and related construction materials ("Construction Materials Recycling Center") and to
5 process Existing Stockpile into fill material and other construction products for use or sale by
6 the Port, pursuant to a defined Scope of Work; and

7 WHEREAS, On February 26, 2008, the Port Commission approved Resolution 08-14
8 authorizing Port staff to enter into exclusive negotiations with Raisch Company, a California
9 corporation, dba Raisch Products, and San Francisco Recycling and Disposal, Inc.
10 ("SFR&D"), a California corporation and wholly owned subsidiary of Norcal Waste Systems,
11 Inc. ("Raisch/SFR&D"); and

12 WHEREAS, Raisch/SFR&D have entered into a joint venture agreement to form
13 Sustainable Crushing Ventures, LLC, a California limited liability company ("Sustainable
14 Crushing Ventures"), which has filed articles of organization with the California Secretary of
15 State; and

16 WHEREAS, The Port and Sustainable Crushing Ventures have completed negotiations
17 for Lease No. L-14705, including a services contract, and certain terms for optional public
18 works contract, on the terms outlined in the February 24, 2009 Port Commission staff report,
19 which was approved by the Port Commission on March 24, 2009 by Resolution 09-21 and is
20 described in the proposed agreement on file with the Clerk of the Board of Supervisors; and

21 WHEREAS, The Department of Public Health has reviewed the proposed operations
22 plan for the Construction Materials Recycling Center ("Operations Plan") and determined that
23 the proposed operation is a Type A Inert Debris Recycling Facility under California Code of
24 Regulations Title 14 §§ 17380 et seq.; and

1 WHEREAS, The San Francisco Planning Department's Major Environmental Analysis
2 Division has issued to the Port a General Rule Exclusion, which finds Port actions to approve
3 new leases where the use under the new lease would continue an existing use for the site
4 without any substantial physical changes to the site or substantial intensification of the use are
5 exempt from environmental review under the California Environmental Quality Act ("CEQA");
6 and

7 WHEREAS, The allowed use by Sustainable Crushing Ventures under Lease
8 No. L-14705 continues the prior use under Lease No. L-12831 without any substantial
9 physical changes to the site or substantial intensification of the use and, therefore, San
10 Francisco Port Commission approval of Lease No. L-14705 is within the Port's General Rule
11 Exclusion for CEQA purposes; and

12 WHEREAS, The Port will not enter into the optional public works contract to place and
13 compact fill material onto adjacent Port property without Board of Supervisors authorization to
14 proceed at the negotiated price per ton ; now, therefore be it

15 RESOLVED, That the Board of Supervisors approves Lease No. L-14705 and
16 authorizes the Executive Director or her designee to execute Lease No. L-14705, in
17 substantially the form on file with the Clerk of the Board of Supervisors; and, be it

18 FURTHER RESOLVED, That, except for the optional public works contract as provided
19 in this Resolution, the Port Commission authorizes the Executive Director to enter into any
20 additions, amendments or other modifications to Lease No. L 14705 that the Executive
21 Director, in consultation with the City Attorney, determines are in the best interests of the Port,
22 do not materially increase the obligations or liabilities of the City or Port, and are necessary or
23 advisable to complete the transactions that Lease No. L 14705 contemplates and effectuate
24 the purpose and intent of this Resolution, such determination to be conclusively evidenced by
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1 the execution and delivery by the Executive Director of Lease No. L 14705, and any such
2 amendments thereto; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors directs the Executive Director
4 to seek further Board of Supervisors authorization before entering into the optional public
5 works contract with Sustainable Crushing Ventures; and be it

6 FURTHER RESOLVED, That the Board of Supervisors directs the Executive Director
7 to seek further Board of Supervisors authorization if Sustainable Crushing Ventures seeks to
8 expand Permitted Uses on the Premises to recycle other types of Construction Materials, as
9 provided in Lease No. L-14705; and be it

10 FURTHER RESOLVED, That the Board of Supervisors approves, confirms, and ratifies
11 all prior actions taken by the officials, employees and agents of the Port Commission,
12 Planning Commission, or the City with respect to Lease No. L 14705.

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City and County of San Francisco

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

Tails Resolution

File Number: 090737

Date Passed:

Resolution approving the Port Commission Lease No. L-14705 with Sustainable Crushing Ventures, LLC, for a five year term with a five year extension option for certain real property located at Pier 94, Seawall Lot 352 in the City and County of San Francisco.

July 21, 2009 Board of Supervisors — ADOPTED

Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Dufty, Elsbernd, Mar,
Maxwell, Mirkarimi

Absent: 1 - Daly

File No. 090737

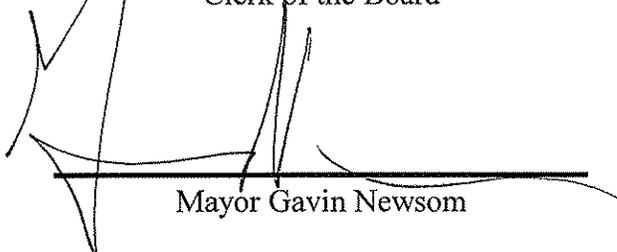
I hereby certify that the foregoing Resolution was ADOPTED on July 21, 2009 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board

7/27/09

Date Approved



Mayor Gavin Newsom