FILE NO. 161299

AMENDED IN COMMITTEE 12/8/2016 MOTION NO. M16-178

[Issuance of Subpoena Duces Tecum - Jack P. Moehle]

Motion directing the Clerk of the Board of Supervisors to issue a subpoena duces tecum to Jack P. Moehle, requiring him to appear at the Government Audit and Oversight Committee hearing on January 12, 2017, at 9:30 a.m., to provide oral information and respond to questions regarding the design, engineering, review, and approval process for the projects at 301 Mission Street and 80 Natoma Street; and requiring him to produce documents, records, and other materials in his possession related to those two projects.

WHEREAS, News accounts in August 2016 revealed that the high-rise building at 301 Mission Street, commonly known as Millennium Tower, has settled more, and more quickly, than its designers anticipated, and that the building has settled 16 inches and now leans by two inches at its base; and

WHEREAS, In a series of hearings over the past three months, the Board of Supervisors has initiated an investigation into the causes of the settlement, its impacts on residents of the building and the surrounding neighborhood, its implications for future buildings in the City, and the role of the Department of Building Inspection (DBI) in reviewing and permitting the project; and

WHEREAS, In the course of those hearings, the Government Audit and Oversight Committee has inquired into and compared the review and permitting process for the 301 Mission project with the process for the nearby project at 80 Natoma Street; and

WHEREAS, During the approximate time period from 2005 through 2007, Jack P. Moehle served with Hardip Pannu, Structural Engineer for Middlebrook and Louie, on a DBI Structural Peer Review Panel for the 301 Mission Street project; and Mr. Moehle and Mr. Pannu's primary point of contact at DBI was Hanson Tom, the City's principal engineer for plan review of the project; and

WHEREAS, Mr. Moehle, Mr. Pannu, and Mr. Tom participated in the review of various structural engineering design issues for the high-rise and mid-rise towers at 301 Mission Street before DBI issued its certificate of final completion and occupancy for the project in September 2009; and

WHEREAS, Mr. Moehle served as Chair of the peer review panel tasked with reviewing the structural safety of the design of the proposed development at 80 Natoma Street; and

WHEREAS, Former Director of the Department of Building Inspection, Frank Y. Chiu, ordered construction work stopped at the proposed project at 80 Natoma Street, in light of the publicly-documented concerns from experts and geotechnical consultants that the building's proposed foundation would not support the weight of said high-rise, all of which Mr. Moehle was apprised of; and

WHEREAS, Records show that in June 2004, Jack Moehle was retained by DeSimone Consulting Engineers to sit on the peer review panel of the Millennium Tower project at 301 Mission Street; and

WHEREAS, Mr. Moehle and his counterpart on the Millennium Tower review panel paid for by Millennium Partners, Hardip Pannu, both signed off on the safety and design of the 301 Mission Street project, even though it was a similar foundation to the 80 Natoma Street project that was ultimately denied; and

WHEREAS, Mr. Moehle possesses information related to the subject matter under investigation by the Board of Supervisors, and the Board of Supervisors is unable to acquire this information from other sources because of Mr. Moehle's unique role; and

WHEREAS, Supervisor Aaron Peskin, Chairperson of the Government Audit and Oversight Committee, has requested that Mr. Moehle attend a hearing of the Committee to

Supervisor Peskin BOARD OF SUPERVISORS respond to questions regarding his knowledge of the 301 Mission and 80 Natoma projects and provide the Committee with relevant records in his possession, but Mr. Moehle has indicated that he will not attend a hearing or produce records unless compelled to do so by subpoena; and

WHEREAS, On November 16, 2016, the Chairperson of the Committee sent a letter to Mr. Moehle requesting that he reconsider his unwillingness to attend a hearing or produce documents, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 160975, but Mr. Moehle has not responded to that letter; and

WHEREAS, A draft subpoena requiring Mr. Moehle to attend a hearing of the Committee and to produce documents is on file with the Clerk of the Board of Supervisors in File No. 161299; now, therefore, be it

MOVED, That pursuant to its authority under Charter, Section 16.114, and Government Code, Sections 25170 and 37104, the Board of Supervisors hereby directs the Clerk of the Board to issue a subpoena duces tecum in substantially the form and substance of the draft subpoena referenced above, requiring Mr. Moehle to (1) attend the Government Audit and Oversight Committee meeting at 9:30 a.m. on January 12, 2017, to provide oral information and respond to questions regarding his participation in and knowledge regarding the design, engineering, review, and approval process for the projects at 80 Natoma Street and 301 Mission Street in San Francisco; and (2) produce and permit inspection and copying of all documents, records, and other materials in his possession related to those two projects; and, be it

FURTHER MOVED, That the Clerk of the Board of Supervisors, in consultation with the City Attorney, may amend the draft subpoena prior to issuing it, consistent with the direction in this Motion; and, be it

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FURTHER MOVED, That the Clerk and the Chairperson of the Government Audit and Oversight Committee may in their discretion modify the time and date set forth in the subpoena, and may reissue the subpoena with a modified time and date, in order to accommodate Mr. Moehle's and the Committee's schedules.



City and County of San Francisco Tails

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

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File Number: 161299

Date Passed: December 13, 2016

Motion directing the Clerk of the Board of Supervisors to issue a subpoena duces tecum to Jack P. Moehle, requiring him to appear at the Government Audit and Oversight Committee hearing on January 12, 2017, at 9:30 a.m., to provide oral information and respond to questions regarding the design, engineering, review, and approval process for the projects at 301 Mission Street and 80 Natoma Street; and requiring him to produce documents, records, and other materials in his possession related to those two projects.

December 08, 2016 Government Audit and Oversight Committee - AMENDED

December 08, 2016 Government Audit and Oversight Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

December 13, 2016 Board of Supervisors - APPROVED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang and Yee

Vacant: 1 - District 8

File No. 161299

I hereby certify that the foregoing Motion was APPROVED on 12/13/2016 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo Clerk of the Board