

1 [Settlement of Unlitigated Claim - United States Environmental Protection Agency - Yosemite  
2 Slough Sediment Site]

3 **Resolution approving settlement of United States Environmental Protection Agency's**  
4 **("EPA") unlitigated claim against the City and County of San Francisco; no formal**  
5 **claim has been filed; the settlement resolves EPA's claims against the City to perform**  
6 **pre-design technical studies in support of cleanup of the Yosemite Slough Sediment**  
7 **Site; the settlement requires the City and three other government entities to perform**  
8 **four technical studies at an estimated cost of \$225,000 to be divided equally between**  
9 **four parties; additional material terms of the settlement are that the City will contract**  
10 **with a third party environmental consultant for performance of the studies, the City will**  
11 **assume responsibility for completion of the work pursuant to the settlement**  
12 **agreement, the City will assume responsibility and indemnify EPA for any stipulated**  
13 **penalties or claims arising in connection with performance of the work under the**  
14 **agreement, and the City will reimburse EPA for 25% of future response costs.**

15  
16 WHEREAS, On December 15, 2008, the United States Environmental Protection  
17 Agency ("EPA") served notice on the City and County of San Francisco ("City") identifying the  
18 San Francisco Public Utilities Commission ("SFPUC"), along with other public and private  
19 entities, as a potentially responsible party ("PRP") under the Comprehensive Environmental  
20 Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq. ("CERCLA"), for  
21 the cleanup of contaminated sediment at Yosemite Slough, a tidal channel flowing to the  
22 South Basin of the San Francisco Bay between Hunters Point and Candlestick Point (the  
23 "Site"); and  
24  
25

1           WHEREAS, On January 27, 2015, EPA issued a demand, pursuant to 42 U.S.C.  
2 §9622(e) (the "Special Notice Letter"), that the City and other PRPs complete sixteen pre-  
3 design technical studies in support of EPA's chosen cleanup plan for the Site; and

4           WHEREAS, The City has agreed with PRPs California Department of Parks and  
5 Recreation ("State Parks"), California State Lands Commission ("State Lands"), and United  
6 States Defense Logistics Agency ("DLA") to perform four of the studies; and

7           WHEREAS, Under the settlement, the City, State Parks, State Lands, and DLA have  
8 agreed to equally share the cost of performing the four studies which is estimated not to  
9 exceed \$225,000, the City will assume responsibility for performing the work through a third  
10 party contractor, and the City also will be responsible to EPA for any stipulated penalties or  
11 third party claims arising in connection with performance of the work under the settlement;  
12 and

13           WHEREAS, The settlement further provides that the City, State Parks, State Lands,  
14 and DLA shall reimburse EPA for its future costs incurred in implementing, overseeing or  
15 enforcing the settlement ("Future Response Costs"), with each bearing its pro rata share  
16 (25%) of the Future Response Costs; and

17           WHEREAS, This settlement does not resolve EPA's claims against the City under the  
18 Superfund Law for the ultimate cleanup of the Site; and

19           WHEREAS, A copy of the settlement agreement ("Settlement Agreement") is on file  
20 with the Clerk of the Board of Supervisors in File No. 160771; now, therefore, be it

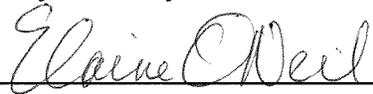
21           RESOLVED, That pursuant to Administrative Code, Section 10.22, the Board of  
22 Supervisors hereby authorizes the City Attorney to settle and compromise EPA's Special  
23 Notice Letter as described herein; and, be it

24           FURTHER RESOLVED, That the Board of Supervisors hereby authorizes SFPUC's  
25 General Manager to enter into any amendments or modifications to the Settlement Agreement

1 that the General Manager determines in consultation with the City Attorney: are in the best  
2 interest of the City; do not materially increase the obligations or liabilities of the City; are  
3 necessary or advisable to effectuate the purposes and intent of the Settlement Agreement or  
4 this resolution; and are in compliance with all applicable laws, including the City Charter.

5  
6 APPROVED:

7 DENNIS J. HERRERA  
8 City Attorney

9   
10 ELAINE O'NEIL  
11 Deputy City Attorney  
12 Construction and Public Contracting  
13 Team Leader

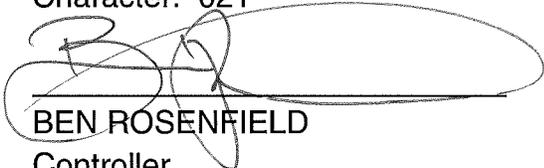
RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES  
COMMISSION

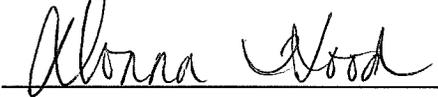
14   
15 HARLAN L. KELLY, JR.  
16 General Manager of the San Francisco  
17 Public Utilities Commission

18 TFY 16/17 Funds Available: \$75,000

19 Index code: 920101  
20 Character: 021

21   
22 BEN ROSENFELD  
23 Controller

APPROVED:

24   
25 DONNA HOOD  
Commission Secretary

Future funding subject to approval of the FY  
17/18 Annual Appropriation Ordinance

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# City and County of San Francisco

## Tails Resolution

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

**File Number:** 160771

**Date Passed:** August 02, 2016

Resolution approving settlement of United States Environmental Protection Agency's ("EPA") unlitigated claim against the City and County of San Francisco; no formal claim has been filed; the settlement resolves EPA's claims against the City to perform pre-design technical studies in support of cleanup of the Yosemite Slough Sediment Site; the settlement requires the City and three other government entities to perform four technical studies at an estimated cost of \$225,000 to be divided equally between four parties; additional material terms of the settlement are that the City will contract with a third party environmental consultant for performance of the studies, the City will assume responsibility for completion of the work pursuant to the settlement agreement, the City will assume responsibility and indemnify EPA for any stipulated penalties or claims arising in connection with performance of the work under the agreement, and the City will reimburse EPA for 25% of future response costs.

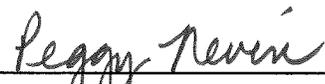
July 21, 2016 Government Audit and Oversight Committee - RECOMMENDED..

August 02, 2016 Board of Supervisors - ADOPTED

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

File No. 160771

**I hereby certify that the foregoing Resolution was ADOPTED on 8/2/2016 by the Board of Supervisors of the City and County of San Francisco.**

  
\_\_\_\_\_  
Angela Galvillo  
Clerk of the Board

  
\_\_\_\_\_  
Mayor

8/11/16  
\_\_\_\_\_  
Date Approved