

1 [Tolling and Standstill Agreement - Yosemite Slough Environmental Claims]

2

3 **Resolution approving a Tolling and Standstill Agreement to toll the statute of**
4 **limitations and forbear the City and other parties that are potentially responsible for**
5 **environmental contamination at Yosemite Slough from taking action with respect to**
6 **claims related to costs or expenses arising from the Yosemite Slough Superfund Site.**

7

8 WHEREAS, Yosemite Slough is an inlet channel tidally connected to the San Francisco
9 Bay located between the Hunters Point Naval Shipyard and the Candlestick Point State
10 Recreational Area that contains contaminated sediments identified by the United States
11 Environmental Protection Agency (EPA); and

12 WHEREAS, EPA has designated Yosemite Slough as a site that will be investigated
13 and cleaned up under the Comprehensive Environmental Response, Compensation, and
14 Liability Act of 1980 (“CERCLA”), 42 U.S.C. Sections 9601, *et seq.* (the “Site”); and

15 WHEREAS, EPA has named the City as a Potentially Responsible Party (PRP) liable
16 under CERCLA for the Site cleanup along with numerous other private and public entities, a
17 complete list of whom is contained in Board of Supervisors File No. _____; and

18 WHEREAS, In January 2014 EPA issued a final Engineering Evaluation/Cost Analysis
19 that includes a proposed remedy for a cleanup project at the Site; and

20 WHEREAS, The City and certain other PRPs have agreed to participate in a non-
21 binding mediation process with a third-party neutral mediator in an attempt to fairly and
22 equitably allocate potential liabilities in connection with the Site; and

23 WHEREAS, Some PRPs have expressed concerns that delay associated with
24 participation in the mediation should not be considered in calculating applicable limitations

25

1 periods for potential claims between participants and that the mediation participants should
2 agree not to pursue claims against any other participant during the mediation process; and

3 WHEREAS, To facilitate an efficient and mutually beneficial resolution of potential
4 claims associated with the Site and to avoid the need for potentially unnecessary litigation,
5 participants in the mediation are asked to agree that the limitations period for any potential
6 litigation related to the Site shall be tolled and no participant shall pursue claims or causes of
7 action against any other participant until termination of the mediation process. This tolling and
8 standstill agreement is set forth in the Yosemite Slough Superfund Site Mediation Agreement
9 (“Mediation Agreement”), Section IV, on file with the Clerk of the Board of Supervisors in File
10 No. _____; now, therefore, be it

11 RESOLVED, That Board of Supervisors authorizes the City to agree that the statute of
12 limitations for any party to the Mediation Agreement to file an action against the City with
13 respect to any claimed costs or expenses arising out of the Site shall be tolled as of the
14 Effective Date of the Mediation Agreement pursuant to the termination provisions therein; and,
15 be it

16 FURTHER RESOLVED, That Board of Supervisors authorizes the City to agree that
17 until expiration or termination of the Mediation Agreement it will not pursue against any other
18 participant to the Mediation Agreement any claims or causes of action under any statute or
19 common law relating to the matters the Mediation Agreement is designed to resolve; and, be it

20 FURTHER RESOLVED, That the Board of Supervisors hereby approves the tolling and
21 standstill provisions in the Mediation Agreement, Section IV, contained in Board of
22 Supervisors File No. _____ and authorizes the City Attorney to enter into such
23 Agreement on behalf of the City and County of San Francisco.