

1 [Excavation Fund Expenditures]

2 RATIFYING EXCAVATION FUND EXPENDITURES MADE BY THE DEPARTMENT OF  
3 PUBLIC WORKS PRIOR TO CLARIFYING ADDITIONS MADE IN 1998 TO THE  
4 ADMINISTRATIVE CODE.

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7 WHEREAS, The Public Works Code has historically contained language relating to the  
8 Department of Public Work's ability to collect and utilize fees related to excavation permits; and,

9 WHEREAS, Prior to 1992, the Public Works Code, per Section 352, only allowed these fees to  
10 be used for costs related to inspections; and,

11 WHEREAS, In 1992, per Ordinance Number 213-92, Section 352 of the Public Works Code  
12 was amended to allow the Department to collect fees for excavation permits "to cover the cost incurred  
13 by the Department of Public Works in the exercise of its duties pursuant to this Article [Excavations in  
14 Streets] and for the administration, supervision and inspection of the permitted excavation"; and,

15 WHEREAS, The 1992 Public Works Code revisions did not amend Section 358 of the Code,  
16 which also contained pertinent language regarding the use of these monies; and,

17 WHEREAS, Section 358 of the Public Works Code stated that the monies paid to the  
18 Department of Public Works under the provision of Section 352 were to be deposited in a designated  
19 "Excavation Fund" that was "to be used to defray the cost of inspection made necessary by reason of  
20 such excavation and repairs"; and,

21 WHEREAS, The 1992 amendments of the Public Works Code thus left internally inconsistent  
22 sections in the Code in that that Section 352 allowed the Department of Public Works to collect monies  
23 to cover a wide range of costs related to the City's regulation of excavation while Section 358 only  
24 permitted the Department to spend the money "to defray the cost of inspection"; and,

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1           WHEREAS, The Department of Public Works, relying on the provisions of Section 352, and  
2 unaware of the ambiguity created by Section 358, has consistently used monies in the Excavation Fund  
3 to pay costs for excavation-related regulatory activities that fall within the scope of Section 352,  
4 including, but not limited to, costs for computer equipment, programming, training, consultants,  
5 attorney services, public information, Police Department services, and inspector's cars; and

6           WHEREAS, Sections 352 and 358 of the Public Works Code were subsequently repealed in  
7 1998 and replaced by Section 10.117-120 of the Administrative Code, which resolved this ambiguity  
8 and clearly reflects the Board of Supervisors' intent for the Department of Public Works to use monies  
9 in the Excavation Fund to pay for all costs associated with the City's regulation of excavation; now,  
10 therefore, be it

11           RESOLVED, That the Board of Supervisors finds that the Department of Public Works properly  
12 used monies in the Excavation Fund to cover the costs of excavation-related regulatory activities in  
13 reliance upon Section 352 of the Public Works Code, as amended in 1992; and, be it

14           FURTHER RESOLVED, That the Board of Supervisors finds that the ambiguity described  
15 above that was created by Sections 352 and 358 was due to administrative oversight; and, be it

16           FURTHER RESOLVED, That the Board of Supervisors hereby ratifies the prior expenditures  
17 from the Excavation Fund by the Department of Public Works in reliance upon Public Works Code  
18 Section 352.



# City and County of San Francisco

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

## Tails

### Resolution

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**File Number:** 991554

**Date Passed:**

Resolution ratifying excavation fund expenditures made by the Department of Public Works prior to clarifying additions made in 1998 to the Administrative Code.

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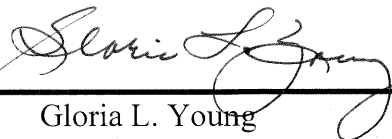
August 16, 1999 Board of Supervisors — ADOPTED

Ayes: 10 - Yaki, Yee, Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno,  
Newsom

Absent: 1 - Teng

File No. 991554

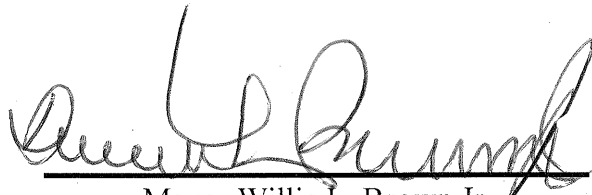
I hereby certify that the foregoing Resolution was ADOPTED on August 16, 1999 by the Board of Supervisors of the City and County of San Francisco.



Gloria L. Young  
Clerk of the Board

AUG 27 1999

Date Approved



Mayor Willie L. Brown Jr.