

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

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

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

15 Index code: 920101
16 Character: 021

17 _____
18 BEN ROSENFELD
19 Controller

20 Future funding subject to approval of the FY
21 17/18 Annual Appropriation Ordinance

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RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

HARLAN L. KELLY, JR.
General Manager of the San Francisco
Public Utilities Commission

APPROVED:

DONNA HOOD
Commission Secretary