

1 [First Amended Tolling Agreement - California Department of Fish and Wildlife, Office of Spill  
2 Prevention and Response - San Mateo Creek Discharges]

3 **Resolution approving a First Amended Tolling Agreement to toll the statutes of**  
4 **limitations for the California Department of Fish and Wildlife, Office of Spill Prevention**  
5 **and Response, to bring potential claims against the San Francisco Public Utilities**  
6 **Commission for discharges of chlorinated water into San Mateo Creek.**

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8 WHEREAS, The San Francisco Public Utilities Commission (“Commission”) owns and  
9 operates Lower Crystal Springs Dam and the Crystal Springs Pipeline located on San Mateo  
10 Creek in San Mateo County (collectively “Crystal Springs Facilities”); and

11 WHEREAS, The California Department of Fish and Wildlife, Office of Spill Prevention  
12 and Response (“State”) has identified potential violations and enforcement actions relating to  
13 discharge of chlorinated water into San Mateo Creek from the Crystal Springs Facilities on  
14 October 3 and 24, 2012, and February 9, 2013; and

15 WHEREAS, The City and County of San Francisco (“City”) and State have agreed to  
16 attempt to negotiate a resolution between the parties of potential claims without the expense  
17 of litigation; and

18 WHEREAS, To facilitate an efficient and mutually beneficial resolution of potential  
19 claims associated with the Crystal Springs Facilities and to avoid potentially unnecessary and  
20 costly litigation, the Board of Supervisors previously approved a Tolling Agreement in  
21 Resolution No. 356-15, File No. 150852, in which the Commission and the State agreed that  
22 the limitations period for any potential litigation related to the operation of the Crystal Springs  
23 Facilities in 2012 and 2013 would be tolled and the State would not pursue claims or causes  
24 of action against the City until termination of the agreed upon tolling period on April 3, 2016;  
25 and

1           WHEREAS, The Commission and the State desire to extend the limitations period in  
2 the Tolling Agreement for any potential litigation related to the Crystal Springs Facilities to  
3 October 3, 2016, in order to fully analyze fishery and other data gathered by Commission staff  
4 and consultants during 2015, thereby facilitating an economical settlement favorable to the  
5 Commission; and

6           WHEREAS, Upon the approval of the Board, the agreement to extend the limitations  
7 period in the Tolling Agreement to October 3, 2016, is approved as set forth in the First  
8 Amendment to the Tolling Agreement, on file with the Clerk of the Board of Supervisors in File  
9 No. \_\_\_\_\_; now, therefore, be it

10          RESOLVED, That the Board of Supervisors authorizes the City to agree that the  
11 statute of limitations for the State to file an action against the City with respect to any claim  
12 arising out of discharges from the Crystal Springs Facilities on October 3 and 24, 2012, and  
13 February 9, 2013, shall be tolled as of the Effective Date of the First Amendment to the Tolling  
14 Agreement to October 3, 2016, pursuant to the provisions therein; and, be it

15          FURTHER RESOLVED, That the Board of Supervisors hereby approves the tolling  
16 provisions of the First Amendment to the Tolling Agreement contained in Board of Supervisors  
17 File No. \_\_\_\_\_ and authorizes the City Attorney to enter into such Agreement on behalf of  
18 the City; and, be it

19          FURTHER RESOLVED, That the Board of Supervisors authorizes the City Attorney to  
20 extend the tolling period for an additional six-month period to April 3, 2017, should such an  
21 extension be necessary to conclude settlement negotiations with the State.

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