

1 [Board Response - Civil Grand Jury Report - Shovel Ready: Best Practices and Collaboration
2 to Improve San Francisco’s Capital Construction Program]

3 **Resolution responding to the Presiding Judge of the Superior Court on the findings**
4 **and recommendations contained in the 2021-2022 Civil Grand Jury Report, entitled**
5 **“Shovel Ready: Best Practices and Collaboration to Improve San Francisco’s Capital**
6 **Construction Program;” and urging the Mayor to cause the implementation of accepted**
7 **findings and recommendations through her department heads and through the**
8 **development of the annual budget.**

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10 WHEREAS, Under California Penal Code, Section 933 et seq., the Board of
11 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
12 Court on the findings and recommendations contained in Civil Grand Jury Reports; and

13 WHEREAS, In accordance with California Penal Code, Section 933.05(c), if a finding or
14 recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a
15 county agency or a department headed by an elected officer, the agency or department head
16 and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the
17 response of the Board of Supervisors shall address only budgetary or personnel matters over
18 which it has some decision making authority; and

19 WHEREAS, Under San Francisco Administrative Code, Section 2.10(a), the Board of
20 Supervisors must conduct a public hearing by a committee to consider a final report of the
21 findings and recommendations submitted, and notify the current foreperson and immediate
22 past foreperson of the Civil Grand Jury when such hearing is scheduled; and

23 WHEREAS, In accordance with San Francisco Administrative Code, Section 2.10(b),
24 the Controller must report to the Board of Supervisors on the implementation of
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1 recommendations that pertain to fiscal matters that were considered at a public hearing held
2 by a Board of Supervisors Committee; and

3 WHEREAS, The 2021-2022 Civil Grand Jury Report, entitled “Shovel Ready: Best
4 Practices and Collaboration to Improve San Francisco’s Capital Construction Program”
5 (“Report”) is on file with the Clerk of the Board of Supervisors in File No. 220505, which is
6 hereby declared to be a part of this Resolution as if set forth fully herein; and

7 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond
8 to Finding Nos. F1, F2, F3, F4, F5, F6, and F8, as well as Recommendation Nos. R1, R2, R3,
9 R4, R5, R6, R7, R8, and R9, contained in the subject Report; and

10 WHEREAS, Finding No. F1 states: “Without a clear project manager with full
11 responsibility and authority, the contractor performance evaluation database project lacked
12 sufficient momentum to be completed, fully adopted and used;” and

13 WHEREAS, Finding No. F2 states: “The existing project team and Chapter 6
14 departments failed to implement the database in a timely manner, delaying the benefits it
15 could provide in improving construction quality, meeting budgets and timelines, and improving
16 contractor relationships;” and

17 WHEREAS, Finding No. F3 states: “Chapter 6 departments failed to enter performance
18 evaluations into the database, thus negating its value;” and

19 WHEREAS, Finding No. F4 states: “Prior updates to Section 6.26 of the Administrative
20 Code excluded language that the database *must* be used to evaluate contractors going
21 forward;” and

22 WHEREAS, Finding No. F5 states: “In designing and developing the database, the
23 project team neglected to add the technical capability to see who consults the database,
24 making it difficult to hold departments accountable for using the database;” and
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1 WHEREAS, Finding No. F6 states: “When evaluators omit ‘Lessons Learned’ entries in
2 that data field, the evaluations lack the most critical information to help inform future
3 contractor selections;” and

4 WHEREAS, Finding No. F8 states: “The database fails to provide a way for non-
5 Chapter 6 departments to provide feedback on both contractors and Chapter 6 department
6 performance, resulting in no accountability for either the contracting department or the
7 contractor;” and

8 WHEREAS, Recommendation No. R1 states: “We recommend that by 6/15/22 the
9 Mayor specify which department shall manage and have responsibility and authority for the
10 contractor performance evaluation database to improve compliance, monitoring and
11 consistent use. We further recommend that the director of the specified department appoint
12 the project manager by 6/30/22;” and

13 WHEREAS, Recommendation No. R2 states: “We recommend that by 9/30/22, the
14 database project manager specified in R1 complete implementation, training sessions and ‘go
15 live’ workshops with all Chapter 6 departments;” and

16 WHEREAS, Recommendation No. R3 states: “We recommend that by 12/31/2022, the
17 Mayor require that all Chapter 6 departments to begin submitting evaluations into the
18 database;” and

19 WHEREAS, Recommendation No. R4 states: “We recommend that by 12/31/2022, the
20 Mayor explicitly directs all Chapter 6 departments to consult the database when selecting
21 contractors;” and

22 WHEREAS, Recommendation No. R5 states: “We recommend that by 6/30/2023 the
23 project manager update the database technology to include the capability to hold evaluators
24 accountable by observing who is using the database and when;” and

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1 WHEREAS, Recommendation No. R6 states: “We recommend that by 6/30/2023, the
2 project manager update the database technology to require the ‘Lessons Learned’ data field
3 be filled out before an evaluation can be marked ‘complete;” and

4 WHEREAS, Recommendation No. R7 states: “We recommend that by 6/30/2023, the
5 project manager include sections in the database to cover contractor compliance with the SIP
6 program;” and

7 WHEREAS, Recommendation No. R8 states: “We recommend that by 6/30/2023, the
8 project manager expand the database to include input from non-Chapter 6 departments
9 receiving construction services from Chapter 6 departments;” and

10 WHEREAS, Recommendation No. R9 states: “We recommend that starting in FY
11 2022-2023, the City Services Auditor Department within the Controller’s Office conduct
12 performance audits of the City construction program every two years focusing on use of best
13 practices, collaboration, and other successes and challenges. The Controller’s report from
14 2014 can serve as a template;” and

15 WHEREAS, In accordance with California Penal Code, Section 933.05(c), the Board of
16 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
17 Court on Finding Nos. F1, F2, F3, F4, F5, F6, and F8, as well as Recommendation Nos. R1,
18 R2, R3, R4, R5, R6, R7, R8, and R9 contained in the subject Report; now, therefore, be it

19 RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the
20 Superior Court that they agree with Finding No. F1; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge
22 of the Superior Court that they agree with Finding No. F2; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge
24 of the Superior Court that they agree with Finding No. F3; and, be it

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1 FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge
2 of the Superior Court that they agree with Finding No. F4; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge
4 of the Superior Court that they agree with Finding No. F5; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge
6 of the Superior Court that they agree with Finding No. F6; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors reports to the Presiding Judge
8 of the Superior Court that they agree with Finding No. F8; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
10 No. R1 will not be implemented by the Board of Supervisors because the Board does not
11 have jurisdiction, and that the Board hereby urges the Department of Public Works to assign a
12 project manager by December 31, 2022; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
14 No. R2 will not be implemented by the Board of Supervisors because the Board does not
15 have jurisdiction, and that the Board hereby urges the Department of Public Works to hold
16 necessary outreach and training sessions with all Chapter 6 departments by December 31,
17 2022 and to present an implementation report to the Board by March 31, 2023; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
19 No. R3 will not be implemented by the Board of Supervisors because the Board does not
20 have jurisdiction, and that the Board hereby urges all Chapter 6 departments to begin
21 submitting evaluations into the database by December 31, 2022; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
23 No. R4 has not been implemented but will be implemented and that the Board of Supervisors
24 will introduce an ordinance by December 31, 2022 amending the Administrative Code to
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1 require all Chapter 6 departments to consult contractor performance evaluations when
2 selecting contractors; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
4 No. R5 requires further analysis and urges the Department of Public Works to report to the
5 Board of Supervisors by March 31, 2023 on the feasibility of updating the database
6 technology to include the capability to observe who is using the database and when or to
7 present alternative methods of increasing accountability for evaluators in using the database;
8 and, be it

9 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
10 No. R6 requires further analysis and urges the Department of Public Works to report to the
11 Board of Supervisors by March 31, 2023 on the feasibility of updating the database
12 technology to require the “Lessons Learned” field to be filled out before the evaluation can be
13 marked complete or to present alternative methods of collecting this information from Chapter
14 6 departments; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
16 No. R7 the recommendation will not be implemented because the maintenance of a
17 customized database by the Public Utilities Commission for Social Impact Partnership (SIP)
18 projects does not impede that or other Chapter 6 departments’ ability to also submit entries to
19 the Contractor Performance Evaluation Database for those and other applicable public works
20 projects; and, be it

21 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
22 No. R8 will not be implemented because the Contractor Performance Evaluation Database is
23 designed to collect information about construction contractors that are managed directly by
24 Chapter 6 departments, and because other forums including the Capital Planning Committee
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1 are available for Chapter 6 and non-Chapter 6 departments to coordinate and improve
2 construction management practices; and, be it

3 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
4 No. R9 has been implemented by the Controller's City Services Auditor in its FY22-23 work
5 plan; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the
7 implementation of the accepted findings and recommendations through her department heads
8 and through the development of the annual budget.

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