FILE NO. 140940 RESOLUTION NO.

[Board Response - Civil Grand Jury Report - Rising Sea Levels…At Our Doorstep]

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2013-2014 Civil Grand Jury Report, entitled "Rising Sea Levels…At Our Doorstep;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

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

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

WHEREAS, The 2013-2014 Civil Grand Jury Report, entitled "Rising Sea Levels…At Our Doorstep" is on file with the Clerk of the Board of Supervisors in File No. 140940, which is hereby declared to be a part of this resolution as if set forth fully herein; and

WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond to Finding Nos. 1, 2, 3, 5, 11, and 12, as well as Recommendation Nos. 1a, 1b, 1c, 1d, 2a, 2b, 3, 5, 11a, 11b, 11c, 11d, 12a, and 12b contained in the subject Civil Grand Jury report; and

WHEREAS, Finding No. 1 states: "The City does not have a citywide comprehensive plan that addresses the rising sea level issue;" and

WHEREAS, Finding No. 2 states: "The City's Planning Codehas no provisions addressing the impacts associated with rising sea levels. Without appropriate provisions within the City's Planning Code, there are no effective means to insure sustainable development on land vulnerable to rising sea levels;" and

WHEREAS, Finding No. 3 states: "The City's Building Code and the Port's Building Code have no provisions addressing the impacts associated with rising sea levels. Without appropriate provisions within the city's Building Code and the Port's Building Code, there are no effective means to control construction methods that would insure a project's resistance to the impacts of rising sea levels;" and

WHEREAS, Finding No. 5 states: "A comprehensive risk assessment of Ocean Beach, with mitigation recommendations made to the City regarding rising sea levels, was completed by SPUR, with City, State of California and U.S Corps of Engineers involvement, resulting in the Ocean Beach Master Plan, dated May, 2012;" and

WHEREAS, Finding No. 11 states: "The City has not set aside funds for the cost of adaptation to sea level rise;" and

WHEREAS, Finding No. 12 states: "Rising sea levels is a regional problem. What one community does to protect its shorelines may have a negative impact on a neighboring community. This has been successfully accomplished by four counties on the east coast of Florida, as an example;" and

WHEREAS, Recommendation No. 1a states: "The City should prepare and adopt a risk assessment in preparation for developing its comprehensive plan regarding the rising sea level issue;" and

WHEREAS, Recommendation No. 1b states: "The City should adopt a citywide comprehensive plan for adaptation to rising sea levels, especially along its shores and its floodplains. Said plan should include the provision that construction projects' approval should

take into account the anticipated lifespan of each project and the risks faced as outlined in said plan. Special consideration should be given to those anticipated to survive for more than 30 years. Said plan should include a provision that the plan be reviewed and reassessed every 5 years;" and

WHEREAS, Recommendation No. 1c states: "The City should build infrastructure systems that are resilient and adaptable to rising sea levels. That the City, through its planning and building departments, require that any construction project vulnerable to future shoreline or floodplain flooding be designed to be resilient to sea level rise at the 2050 projection, e.g., 16 inches if the construction is not expected to last longer than 2050. For construction intended to last longer than 2050, that the City require that the project be designed to address sea level rise projections for the longer term;" and

WHEREAS, Recommendation No. 1d states: "That City departments that would necessarily be involved in adaptation to rising sea levels, such as Department of Public Works, Public Utilities Commission, Municipal Transportation Agency, the Port, coordinate their projects with each other and with utility companies, such as PG&E, Comcast, and AT&T, to minimize inconvenience to the public, and to businesses, and to further avoid repetition of efforts and inefficient use of funds, labor, and time;" and

WHEREAS, Recommendation No. 2a states: "The Planning Code should be amended to include maps showing the areas in the City that are most at risk from the impacts of sea level rise. The Planning Code should be amended to prohibit development in said at-risk areas unless there is compliance with the provisions of the City's Building Code and the Port's Building Code (if applicable to the project) outlined in Recommendations 3a and 3b. The Planning Code should include a provision that the amended sections of the Code regarding the impact of rising sea levels be reviewed and reassessed every 5 years;" and

WHEREAS, Recommendation No. 2b states: "The Planning Code should be amended to discourage permanent development in at risk areas where public safety cannot be protected;" and

WHEREAS, Recommendation No. 3 states: "The City's Building Code and the Port's Building Code should be amended to include: (1) provisions addressing the impacts associated with sea level rise, especially when combined with storm surges and king tides; (2) construction methods that would ensure a project's resistance to and protection from the impacts of rising sea levels, especially when combined with sudden storm surges and king tides; (3) amendments written to protect the most vulnerable systems, including but not necessarily limited to, electrical, telecommunications, and fire protection systems; (4) provisions relating to rising sea levels be reviewed and reassessed every five years;" and

WHEREAS, Recommendation No. 5 states: "The City should consider implementation of recommendations that are most pertinent to the City, as set forth in the Ocean Beach Master Plan of May 2012;" and

WHEREAS, Recommendation No. 11a states: "The City should start a reserve fund for adaptation for rising sea levels, a portion of which could be obtained from a surcharge on development planned for areas vulnerable to said eventuality;" and

WHEREAS, Recommendation No. 11b states: "The City should assess costs of both implementation of adaptation strategies and potential losses from failing to do so;" and

WHEREAS, Recommendation No. 11c states: "The City should explore applying for grants offered by Congress' Pre-Disaster Mitigation Program. Receipt of grants is based upon risk assessments that indicate that potential savings exceed the cost of implementation. The City should explore available matching funds from the Army Corps of Engineers and other federal sources;" and

WHEREAS, Recommendation No. 11d states: "The City should request an insurance premium estimate from FEMA and then compare that estimate with the funding it could acquire from FEMA for mitigation and adaptation against future flooding;" and

WHEREAS, Recommendation No. 12a states: "The City, through its Mayor and Board of Supervisors, should coordinate its efforts with other cities and organizations in the bay area by establishing a regional working group to address the impact of rising sea levels;" and

WHEREAS, Recommendation No. 12b states: "The City should create a local working group of community citizens and stakeholders to feed into the regional group;" and

WHEREAS, In accordance with California Penal Code, Section 933.05(c), the Board of Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior Court on Finding Nos. 1, 2, 3, 5, 11, and 12, as well as Recommendation Nos. 1a, 1b, 1c, 1d, 2a, 2b, 3, 5, 11a, 11b, 11c, 11d, 12a, and 12b contained in the subject Civil Grand Jury report; now, therefore, be it

RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the Superior Court that the Board of Supervisors partially disagrees with Finding No. 1, for reasons as follows: The City formed in 2013 a Sea Level Rise Committee which addressed sea level rise. A draft plan was presented to the City Administrator, department heads and the Capital Planning Committee in May 2014 and is currently going through review by City agencies; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 2, for reasons as follows: While the Planning Code does not include provisions addressing impacts associated with sea level rise, the Planning Department evaluates whether proposed projects would expose people or structures to a significant risk of loss, injury or death due to flooding as a result of future sea level rise as

part of the environmental review process required under the California Environmental Quality Act (CEQA); and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors partially disagrees with Finding No. 3, for reasons as follows: While the Board of Supervisors does not have jurisdiction, the Board agrees that the City's Building Code and the Port's Building Code do not include provisions addressing impacts associated with sea level rise, the Planning Department does evaluate whether proposed projects would expose people or structures to a significant risk of loss, injury or death due to flooding as a result of future sea level rise as part of the environmental review process required under CEQA; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 5; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 11, for the reason as follows: While the Board of Supervisors have not specifically set aside funds for addressing adaptation to sea level rise, it is being addressed through the draft comprehensive plan that will be addressed when working with the Capitol Planning Committee on future budget allocations on an annual basis; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that the Board of Supervisors agrees with Finding No. 12; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 1a has not been implemented but will be implemented in September 2014,as follows: The draft comprehensive plan referenced in Finding No. 1 was presented to the Capital Planning Committee in May 2014 and will be adopted in September 2014. The draft plan provides a framework that can be used in assessing risk associated with development along San Francisco's shoreline and in addressing that risk; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 1b has not been implemented but will be implemented in September 2014, as follows: CEQA provides the Planning Department with the authority to require that projects be designed to minimize and mitigate potential hazards related to sea level rise and takes into account the asset life cycle in its evaluation; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 1c will not be implemented, for reasons as follows: While the Board of Supervisors agrees that the City should build infrastructure that are resilient and adaptable to rising sea levels, requiring that construction projects should be designed to be resilient to the existing 2050 projection does not take into account other factors that should influence projects, including exposure to storm surge or wave action, asset lifespan and location, and consequence of failure for a project; further, the draft comprehensive plan referenced in Finding No. 1 will address this issue; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 1d has been implemented, as follows: While this recommendation does not directly fall under the jurisdiction of the Board of Supervisors, City departments currently coordinate projects with each other and various utility companies according to procedures established many years ago; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 2a requires further analysis, for reasons as follows: While this recommendation does not directly fall under the jurisdiction of the Board of Supervisors, the San Francisco Public Utilities Commission (SFPUC) and Port have published maps depicting areas along San Francisco's bay and ocean shorelines that are potentially vulnerable to future flooding due to sea level rise through 2100, and the Planning Department considers these maps in evaluating the potential flood hazards for projects located in areas vulnerable to sea level rise under

CEQA; as such, the recommended Planning Code amendments require further analysis, and the Board of Supervisors will report back to the Grand Jury no later than six months from the date of the issuance of the report or by December 25, 2014; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 2b will not be implemented, for reasons as follows: CEQA provides the Planning Department with the authority to require projects to be designed to minimize and mitigate potential hazards related to sea level rise; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 3 requires further analysis, for reasons as follows: Future implementation of new Building Code provisions will require specific, prescriptive changes that account for flexibility. Further analysis and coordination between the scientific community and affected agencies must be performed to develop consistent, effective and practical policies, including Building or Planning Code changes, to address sea level rise. As such, the recommendation requires further analysis, and the Board of Supervisors will report back to the Grand Jury no later than six months from the date of the issuance of the report or by December 25, 2014; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 5 has been implemented, as follows: SFPUC, MTA, Department of Public Works (DPW) and the Planning Department are actively working with SPUR, the California Coastal Commission, and other state and federal agencies and community stakeholders to implement the Ocean Beach Master Plan recommendations concerning coastal erosion, and this work is ongoing; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 11a will not be implemented, for reasons as follows: A reserve fund for sea level rise adaptation is unnecessary since the Mayor and the Board of Supervisors allocate capital

funds on an annual basis, and the City's 10-year Capital Plan can incorporate efforts to address sea level rise through its annual budgeting process; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 11b has been implemented, as follows: The City identified both natural and man hazards facing the City as part of the 2014 San Francisco Hazard Mitigation Plan; future versions of the Hazard Mitigation Plan will incorporate the more recent work of the Sea Level Rise Committee by updating the sea level rise hazard profile and by including a vulnerability analysis for sea level rise; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 11c has been implemented, as follows: While this recommendation does not fall directly under the jurisdiction of the Board of Supervisors, the City and its various agencies have taken the necessary steps to qualify for and receive federal funding. Although some efforts have yet to find success, City departments will continue to actively pursue these and other funding options; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 11d requires further analysis, for reasons as follows: While this recommendation does not fall directly under the jurisdiction of the Board of Supervisors, City staff are currently pursuing all available opportunities to work with the Federal Emergency Management Agency (FEMA) on sea level rise mitigation measures; as such, the recommendation requires further analysis, and the Board of Supervisors will report back to the Grand Jury no later than six months from the date of the issuance of the report or by December 25, 2014; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 12a has been implemented, for reasons as follows: The City's Sea Level Rise Committee reached out to a number of other jurisdictions to assess sea level rise strategies being pursued in other locations; and a working group including the Airport, San Mateo County, Bay

Conservation and Development Commission, California Coastal Conservancy, and other stakeholders began meeting in August 2014 to address impacts of sea levels on the peninsula and will continue to do so; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 12b requires further analysis, for as follows: The Board of Supervisors agrees that community and stakeholder involvement in the process of adapting to sea level rise is essential. The exact nature of the outreach and involvement has not yet been determined; as such, the recommendation requires further analysis, and the Board of Supervisors will report back to the Grand Jury no later than six months from the date of the issuance of the report or by December 25, 2014; and, be it

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