

1 [Cost Reimbursement Agreement - ExxonMobil Corporation - Management of Residual
2 Petroleum Hydrocarbons - Wharf J10 - \$5,000,000]

3 **Resolution approving the Cost Reimbursement Agreement between the Port and**
4 **ExxonMobil Corporation for the management of residual petroleum hydrocarbons on**
5 **City property in the area known as Wharf J10 in Fisherman’s Wharf, for a term of 20**
6 **years or reimbursement of \$5,000,000 increased by 3% annually, whichever comes**
7 **first.**

8
9 WHEREAS, The California Regional Water Quality Control Board for the San Francisco
10 Bay Region (“Water Board”) is the lead regulatory agency having oversight of the
11 environmental site investigation and remedial action at the former Mobil Oil fuel terminal,
12 located at 440 Jefferson Street, within the block bounded by Leavenworth, Jefferson, and
13 Hyde Streets, and San Francisco Bay known as Wharf J10; and

14 WHEREAS, On March 8, 2006, the Water Board issued Order R2-2006-0020 (“Order”)
15 to address the presence of petroleum hydrocarbons in soil and groundwater near Wharf J10
16 naming ExxonMobil (the successor in interest of Mobil Oil) as the primarily responsible party
17 and the City as a secondarily responsible party; and

18 WHEREAS, Wharf J10 is under the jurisdiction and control of the Port of San
19 Francisco; and

20 WHEREAS, ExxonMobil has completed site investigation and remediation to treat and
21 remove petroleum contamination from subsurface soil, Bay sediments, and groundwater in
22 compliance with the Order; and

23 WHEREAS, ExxonMobil has demonstrated to the satisfaction of the Water Board that
24 any remaining residual petroleum contamination can be safely managed through
25

1 implementation of risk management measures under an approved Risk Management Plan
2 (“RMP”); and

3 WHEREAS, Compliance with the RMP will increase the cost of any future projects by
4 the Port, its tenants or others that disturb the soil in the area covered by the RMP; and

5 WHEREAS, The Order requires ExxonMobil to take long-term financial responsibility
6 for such costs; and

7 WHEREAS, The proposed Cost Reimbursement Agreement (“Agreement”) provides a
8 process for obtaining reimbursement from ExxonMobil for costs incurred to comply with the
9 RMP for a term of 20 years or reimbursement of five million dollars (\$5,000,000) (increased
10 annually by 3%) whichever occurs first, subject to good faith negotiations to extend the term
11 once it expires; and

12 WHEREAS, The Agreement does not release ExxonMobil from liability or preclude the
13 City from seeking judicial remedies; and

14 WHEREAS, On April 26, 2016, the San Francisco Port Commission, by its Resolution
15 No. 16-19, approved the Agreement; and

16 WHEREAS, A copy of the Agreement is on file with the Clerk of the Board of
17 Supervisors in File No. 160542; and

18 WHEREAS, Charter, Section 9.118 requires Board of Supervisors approval for
19 contracts with a term of ten or more years; now, therefore, be it

20 RESOLVED, That the San Francisco Board of Supervisors hereby approves the
21 Agreement between the Port and ExxonMobil Corporation in the form approved by the City
22 Attorney’s Office; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors authorizes the Port’s Executive
24 Director to enter into any additions, amendments or other modifications to the Agreement
25 (including, without limitation, preparation and attachment of, or changes to, any or all of the

1 exhibits and ancillary agreements) that the Port's Executive Director, in consultation with the
2 City Attorney, determines when taken as a whole, are in the best interest of the Port and City,
3 do not materially increase the obligations or liabilities of the Port or City or materially decrease
4 the public benefits accruing to the Port or City, and are necessary or advisable to complete
5 the transactions contemplated and effectuate the purpose and intent of this Resolution, such
6 determination to be conclusively evidenced by the execution and delivery by the Port's
7 Executive Director of any such documents; and, be it

8 FURTHER RESOLVED, That within thirty (30) day of the Agreement being fully
9 executed by all parties, the Port shall provide the Agreement to the Clerk of the Board for
10 inclusion into the official file.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25