

1 [Settlement of Unlitigated Claim - Pacific Gas & Electric Company - Not to Exceed
2 \$190,000,000]

3 **Resolution approving settlement of the City’s claims against Pacific Gas & Electric**
4 **Company (“PG&E”) concerning environmental pollution at the Marina East Harbor; City**
5 **to dismiss claims against PG&E pursuant to cost-sharing agreement whereby PG&E**
6 **and City will cooperate on the environmental cleanup and reconstruction of the Marina**
7 **Yacht Harbor; PG&E to pay up to \$190 million toward the cleanup and reconstruction,**
8 **with the Recreation and Park Department to repay PG&E up to \$29.4 million over 30**
9 **years solely out of Marina revenues; other material terms include possible recording of**
10 **land use covenants, mutual indemnity, and each party to bear its own legal costs.**

11
12 WHEREAS, On January 18, 2001, the City commenced an action entitled *City and*
13 *County Of San Francisco v. Pacific Gas & Electric Company, et al.*, No. C 01-0316 SBA,
14 United States District Court, Northern District of California, against PG&E, arising out of the
15 presence of the chemical compounds at the East Harbor Marina in San Francisco; and

16 WHEREAS, On June 2, 2004, the court dismissed the action without prejudice, in order
17 to allow the PG&E and the City to negotiate a settlement for the investigation and cleanup of
18 pollution at the site; and

19 WHEREAS, From 2004 through 2020, the parties entered into a series of cost sharing
20 agreements enabling them to work together to develop a solution for site cleanup and
21 reconstruction; and

22 WHEREAS, PG&E has now agreed to a settlement of the matter, calling for City to
23 issue a full and final release of its claims against PG&E regarding the pollution at the site, in
24 exchange for PG&E funding the parties to jointly perform the planning, outreach, design,
25 environmental review, permitting, and construction of a potential project to clean up and

1 reconstruct the East Harbor and the adjoining West Harbor, with the intention of addressing
2 environmental remediation concerns, promoting environmental stewardship, and providing the
3 public with increased recreational opportunities and water access amenities, all in a financially
4 sustainable and holistic manner; and

5 WHEREAS, The settlement requires PG&E to pay up to \$190 million (“not to exceed
6 Settlement Amount”) in project costs and provide financial assurances for the project, and for
7 the Recreation and Park Department to reimburse PG&E up to \$29.4 million in project costs at
8 zero interest on a 30-year term beginning three years after project completion; and

9 WHEREAS, The Recreation and Park Department reimbursement to PG&E shall be
10 payable solely out of Marina revenues, and City will not be required to appropriate general
11 fund dollars for the repayment in the event Marina revenues are insufficient to cover the
12 reimbursement; and

13 WHEREAS, The Recreation and Park Commission has recommended settlement; and

14 WHEREAS, The settlement does not obligate the City to approve a project at the Site,
15 and any decision regarding a potential project shall be subject to environmental review under
16 the California Environmental Quality Act and further regulatory and City approvals as required
17 by law following completion of planning and design of plans for the Site; now, therefore, be it

18 RESOLVED, That pursuant to Administrative Code, Section 10.24(b), the Board of
19 Supervisors hereby authorizes the City Attorney to settle the action, with PG&E financing the
20 project based on a not to exceed Settlement Amount of \$190 million, and the City repaying
21 PG&E up to \$29.4 million solely out of Marina revenues at no interest on a 30 year term
22 beginning three years after project completion; other material terms include dismissal of the
23 action with prejudice, mutual indemnity, and each party to bear its own legal costs; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors authorizes the Recreation and
2 Park Department General Manager to enter into any modifications and amendments to the
3 settlement agreement, including to any of its exhibits, and authorizes the General Manager to
4 execute further agreements related to the settlement, including land use covenants that may
5 need to be recorded against the site by the Department of Real Estate in connection with the
6 approval of the site cleanup, that the General Manager determines in consultation with the
7 City Attorney are in the best interests of the City and do not materially increase the obligations
8 or liabilities of the City, are necessary or advisable to effectuate the purposes of the
9 settlement or this Resolution, and are in compliance with all applicable laws, including the
10 City's Charter.

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13 APPROVED:

14 DENNIS J. HERRERA
15 City Attorney

16 /s/
17 RONALD P. FLYNN
18 Chief Deputy City Attorney

RECOMMENDED:

RECREATION AND PARK DEPARTMENT

19 /s/
20 Phil Ginsburg
21 General Manager

22 APPROVED:

23 /s/
24 ASHLEY SUMMERS
25 Secretary, Recreation and Park Commission