

File No. 210067

Committee Item No. 9

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: February 18, 2021

Board of Supervisors Meeting:

Date: \_\_\_\_\_

#### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

#### OTHER

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: John Carroll

Date: February 12, 2021

Prepared by: John Carroll

Date: \_\_\_\_\_

Prepared by: John Carroll

Date: \_\_\_\_\_

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

24  
25

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.

11  
12  
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

16 /s/  
17 Phil Ginsburg  
18 General Manager

19 APPROVED:

20 /s/  
21 ASHLEY SUMMERS  
22 Secretary, Recreation and Park Commission

## LEGISLATION RECEIVED CHECKLIST

Date 1/25/21 File Number (if applicable) \_\_\_\_\_

- |                                     |   |     |                   |
|-------------------------------------|---|-----|-------------------|
| <input checked="" type="checkbox"/> | Legislation for Introduction ( <b>NEW</b> )         | ▶▶▶ | Legislative Clerk |
| <input type="checkbox"/>            | Legislation Pending in Committee ( <b>AMENDED</b> ) | ▶▶▶ | Committee Clerk   |
| <input type="checkbox"/>            | Legislation for Board Agenda ( <b>AMENDED</b> )     | ▶▶▶ | Deputy Clerk      |

### **Supervisor, Mayor, and Departmental Submittals**

#### **Grant Ordinance**

- Legislation:** Original, 1 hard copy, and 1 electronic copy in **Word** format
- Signature:** Department Head, Mayor or the Mayor's designee, plus the Controller
- Supporting documents:** 1 full set, and separate **pdf** copies of each in email
  - Cover letter (original)
  - Grant budget/application
  - Grant information form, including signed disability checklist
  - Letter of Intent or grant award letter from funding agency
  - Contract, Leases/Agreements (if applicable)
  - Ethics Form 126 (*if applicable*) in **Word** format
  - Other support documents *as identified in the cover letter and legislation*
- E-Copy of legislation/supporting documents: Sent to BOS.Legislation@sfgov.org**

#### **Ordinance**

- Legislation:** Original, 1 hard copy, and 1 electronic copy in **Word** format
- Signature:** City Attorney (For Settlement of Lawsuits - City Attorney, Department Head, Controller, Commission Secretary)
- Supporting documents:** 1 full set, and separate **pdf** copies of each in email
  - Cover letter (original)
  - Settlement Report/Agreement (for settlements)
  - Other support documents *as identified in the cover letter and legislation*
- E-Copy of legislation/supporting documents: Sent to BOS.Legislation@sfgov.org**

#### **Grant Resolution**

- Legislation:** Original, 1 hard copy, and 1 electronic copy in **Word** format
- Signature:** Department Head, Mayor or the Mayor's designee, plus the Controller
- Supporting documents:** 1 full set, and separate **pdf** copies of each in email
  - Cover letter (original)
  - Grant budget/application
  - Grant information form, including signed disability checklist
  - Letter of Intent or grant award letter from funding agency
  - Contract, Leases/Agreements (if applicable)
  - Ethics Form 126 (*if applicable*) in **Word** format
  - Other support documents *as identified in the cover letter and legislation*
- E-Copy of legislation/supporting documents: Sent to BOS.Legislation@sfgov.org**

#### **Resolution**

- Legislation:** Original, 1 hard copy, and 1 electronic copy in **Word** format
- Signature:** None (Note: Required for Settlement of Claims - City Attorney, Department Head, Controller, Commission Secretary)
- Supporting documents:** 1 full set, and separate **pdf** copies of each in email
  - Cover letter (original)
  - Settlement Report/Agreement (for settlements)
  - Other support documents *as identified in the cover letter and legislation*
- E-Copy of legislation/supporting documents: Sent to BOS.Legislation@sfgov.org**

Joy Perez 415-554-3869  
Name and Telephone Number

City Attorney  
Department