

1 [Mission Bay - Pier 64 Cost Reimbursement Agreement]  
2

3 **Resolution approving the Cost Reimbursement Agreement between the City and**  
4 **County of San Francisco, and Atlantic Richfield Company, Texaco Inc., Chevron U.S.A.**  
5 **Inc. and Union Oil Company of California for the management of residual petroleum**  
6 **hydrocarbons on City Property in certain areas of Mission Bay.**  
7

8 WHEREAS, The California Regional Water Quality Control Board for the San  
9 Francisco Bay Region (the "Regional Board") is the Lead Agency designated under Chapter  
10 6.65 of the California Health & Safety Code to oversee all environmental site investigation and  
11 remedial action at the Mission Bay Development Area, an approximately 300-acre  
12 development area situated in the City and County of San Francisco; and

13 WHEREAS, On April 15, 1998, the Regional Board issued Order 98-028 to address the  
14 presence of petroleum hydrocarbons in soil and groundwater in a portion of the Mission Bay  
15 Development Area around Pier 64 naming the oil companies listed above (the "Pier 64  
16 Group") as primarily responsible parties and the City as a secondarily responsible party; and

17 WHEREAS, The Regional Board subsequently amended the order by issuing Order  
18 01-137 on December 7, 2001 and Order R2-2003-018 on February 19, 2003; Board Order 98-  
19 028 and all amendments thereto or replacements thereof, including order 2005-0028, are  
20 collectively referred to herein as the "Order"; and

21 WHEREAS, For purposes of managing the investigation and remediation of the  
22 property that is covered by the Order, the Regional Board designated four Operable Units  
23 ("OUs"): the Illinois Street Operable Unit, the Parcel X4 Operable Unit, the 16<sup>th</sup> Street  
24 Operable Unit and the Other Areas Operable Unit; the Board OUs; and  
25

1           WHEREAS, The City currently owns property located in the Board OUs, hereinafter  
2 referred to as ("City Property") a portion of which is under the jurisdiction and control of the  
3 Port of San Francisco and a portion of which is under the control of the Department of Real  
4 Estate; and

5           WHEREAS, On May 20, 1998, the Regional Board adopted a resolution concluding  
6 that, other than the free petroleum product addressed under the Order, chemicals present in  
7 soil and groundwater posed a manageable risk to public health and the environment in the  
8 Mission Bay Development Area; and

9           WHEREAS, The Regional Board issued a Certificate of Completion for the property,  
10 other than for such free petroleum product, under Section 25264 of the California Health &  
11 Safety Code; and

12           WHEREAS, One of the conditions for issuance of the Certificate of Completion was  
13 the imposition of an enforceable deed restriction limiting the uses and activities in the Mission  
14 Bay Development Area to those appropriate in light of human health risk, water quality and  
15 other considerations and requiring management of soil and groundwater in the area in  
16 compliance with a Risk Management Plan (hereinafter referred to as the "Mission Bay RMP");  
17 and

18           WHEREAS, To comply with the Regional Board's requirements, the City recorded a  
19 deed restriction on its property in the Mission Bay Development Area on March 21, 2000,  
20 which requires the City, among other actions, to comply with the Mission Bay RMP when  
21 engaged in subsurface activities; and

22           WHEREAS, On February 15, 2005 and November 1, 2005, the Regional Board  
23 approved Remedial Action Plans ("RAPs") for the Parcel X4 OU, the Other Areas of Site OU  
24 and the 16<sup>th</sup> Street OU requiring the Pier 64 Group to remove a substantial portion of the  
25 petroleum hydrocarbons in these OUs; and

1 WHEREAS, The Regional Board has approved management in place for the  
2 remaining petroleum hydrocarbons that are not removed from the site under the RAPs,  
3 provided that any disturbed residual petroleum hydrocarbons are managed in accordance with  
4 the Mission Bay RMP; and

5 WHEREAS, The City, acting through its Department of Public Works and the Port of  
6 San Francisco, will require periodic access for utility work, maintenance and street  
7 reconstruction, necessitating occasional future underground construction activity on City  
8 Property in the area governed by the Mission Bay RMP; and

9 WHEREAS, In the conduct of this work, the City expects to incur additional costs  
10 arising from clean up and disposal of residual contamination and/or compliance with the  
11 Mission Bay RMP; and

12 WHEREAS, To provide an efficient and cost-effective vehicle for reimbursement of  
13 these expected additional costs, the Port, the Mission Bay Task Force and the City Attorney's  
14 Office, on behalf of the City, have negotiated with the Pier 64 Group a 25-year Cost  
15 Reimbursement Agreement ("Agreement") for the reimbursement of costs to the City for  
16 management of residual petroleum hydrocarbons on City Property in certain areas of Mission  
17 Bay, with a cap of five million dollars (\$5,000,000) indexed annually during the term of the  
18 Agreement to increases in the Consumer Price Index (All Urban Consumers);

19 WHEREAS, The Agreement does not release the oil companies from liability or  
20 preclude the City from seeking judicial remedies; and

21 WHEREAS, A copy of the Agreement is on file with the Clerk of the Board of  
22 Supervisors in File No. <sup>060218</sup> \_\_\_\_\_; and

23 WHEREAS, The Agreement provides for a process for the City to seek cost  
24 reimbursement from the Pier 64 Group for Mission Bay RMP compliance costs and in the  
25

1 event the City encounters residual petroleum hydrocarbons while conducting maintenance  
2 and construction activities on City Property;

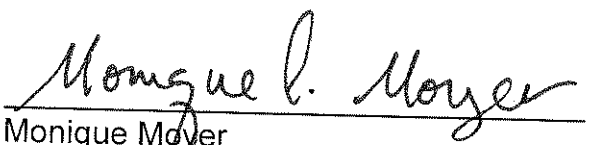
3 WHEREAS, In conjunction with the proposed Agreement, the Pier 64 Group has now  
4 proposed to remove pipelines in the 16<sup>th</sup> Street and the Regional Board has conditionally  
5 approved a RAP to provide for this cleanup; and

6 WHEREAS, On November 10, 2005, the San Francisco Port Commission, by its  
7 Resolution 05-69, approved the Agreement; and

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

10 RESOLVED, That the San Francisco Board of Supervisors hereby approves the  
11 Agreement between the City and County of San Francisco, and Atlantic Richfield Company,  
12 Texaco Inc., Chevron U.S.A. Inc. and Union Oil Company of California for the management of  
13 residual petroleum hydrocarbons on City property in certain areas of Mission Bay, in the form  
14 approved by the City Attorney's Office.

15  
16 Recommended:

17   
18 \_\_\_\_\_  
19 Monique Moyer  
Executive Director, Port of San Francisco

20   
21 \_\_\_\_\_  
22 Anthony J. DeLucchi *LARRY RITZKE*  
Acting Director, Department of Real Estate



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Resolution

**File Number:** 060218

**Date Passed:**

Resolution approving the Cost Reimbursement Agreement between the City and County of San Francisco, and Atlantic Richfield Company, Texaco Inc., Chevron U.S.A. Inc. and Union Oil Company of California for the management of residual petroleum hydrocarbons on City Property in certain areas of Mission Bay.

April 4, 2006 Board of Supervisors — ADOPTED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,  
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 060218

I hereby certify that the foregoing Resolution was ADOPTED on April 4, 2006 by the Board of Supervisors of the City and County of San Francisco.

4.6.06

Date Approved

*for Kay Gulbenagy*  
Gloria L. Young  
Clerk of the Board

*[Signature]*  
Mayor Gavin Newsom