Resolution retroactively approving a cost-sharing agreement not to exceed $2,533,000 between City and the Pacific Gas and Electric Company for environmental analysis, planning, design, and permitting for dredging and harbor reconstruction in Gas House Cove, for a ten-year term of October 1, 2014, through September 30, 2024.

WHEREAS, The City owns property north of Marina Boulevard and west of Fort Mason known as Gas House Cove (the "Site") which is currently used as a small craft marina under the jurisdiction of the Recreation and Park Department; and

WHEREAS, The City seeks to renovate the Site to enhance the recreational facilities and use at the Site; and

WHEREAS, The Pacific Gas and Electric Company (PG&E) and others previously owned and operated a coal gasification plant in the vicinity of the Site that produced materials which may be found at the Site; and

WHEREAS, As the result of subsurface investigations, the presence of chemical compounds, including polycyclic aromatic hydrocarbons, has been discovered in subsurface soils and sediments underlying the Site; and

WHEREAS, In 2001, the City filed a lawsuit against PG&E seeking recovery of costs related to cleanup of the subsurface soils and sediments; and

WHEREAS, On June 2, 2004, the Court entered an Order Dismissing Action without prejudice in order to allow the parties to attempt to carry out the terms and purposes of this Agreement without the expense of litigation while giving either party the right to move to reopen the case; and
WHEREAS, The City and PG&E continue to disagree about who is responsible for the chemical compounds on the Site and who is responsible for investigation and remediation of the Site, but have been cooperatively investigating the Site since October 10, 2004, under a Cost-Sharing Agreement because they recognize efficiencies from addressing responsibility for the chemical compounds on a cooperative basis; and

WHEREAS, The Recreation and Park Department completed a series of technical studies between 2007 and 2014 under the terms of the initial cost-sharing agreement; and

WHEREAS, The City cannot renovate the Site without remediating the chemical compounds identified at the Site; and

WHEREAS, The City and PG&E wish to enter into a new Agreement extending the cost-sharing arrangement to facilitate continued Site investigation, planning, design, regulatory approvals and related pre-construction activities leading to approval of a dredge plan by the Dredge Material Management Office (DMMO) and a project permit from the Bay Conservation and Development Commission (BCDC) to undertake dredging and reconstruction of the Site; and

WHEREAS, The Recreation and Park Department will continue to manage and direct activities to be funded by the Agreement and retains sole decision-making authority regarding the design and possible reconstruction of the Site; and

WHEREAS, The Agreement provides for PG&E to cover 100% of "shared costs” for such activities up to a maximum of $2,533,000, subject to a possible credit upon final resolution of the dispute over responsibility for remediation of the chemical compounds; and

WHEREAS, Upon approval of a Site dredge plan by DMMO and receipt of a project permit from BCDC, the parties agree to meet and confer regarding a further amendment to this Agreement regarding costs of sediment remediation, capping, containment and
monitoring costs, depending on the findings from the activities to be funded under this
Agreement; and

WHEREAS, Both PG&E and the City reserve their claims and arguments with respect
to the underlying responsibility for conditions at the Site subject to the City's complaint in Case
No. C 01-0316 SBA; and

WHEREAS, Both the first Cost Sharing Agreement and this Agreement reflect the
City's agreement to suspend prosecution of the claims in Case No. C 01-0316 SBA and
PG&E's agreement to toll any statute of limitations that may affect the City's claims; and

WHEREAS, The San Francisco Recreation and Parks Commission recommends
approval of this Agreement; now, therefore, be it

RESOLVED, That the Board of Supervisors hereby authorizes the Recreation and Park
Department to enter into a second agreement between the City and PG&E governing cost
sharing for environmental analysis, planning, design and permitting for dredging and harbor
reconstruction in Gas House Cove; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Recreation and
Park Department to enter into amendments or modifications to the Agreement upon approval
from the Recreation and Park Commission to extend the cost sharing agreement through
completion of the harbor reconstruction project, provided that no such amendment shall call
for expenditure of revenues in the City treasury in an amount exceeding $500,000 without
Board of Supervisor approval.
Resolution retroactively approving a cost-sharing agreement not to exceed $10,000,000 between the City and County of San Francisco and the Pacific Gas and Electric Company for environmental analysis, planning, design, and permitting for dredging and harbor reconstruction in Gas House Cove for the term of October 14, 2014, through October 14, 2024.

May 13, 2015 Budget and Finance Sub-Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

May 13, 2015 Budget and Finance Sub-Committee - RECOMMENDED AS AMENDED

June 02, 2015 Board of Supervisors - ADOPTED
Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

I hereby certify that the foregoing Resolution was ADOPTED on 6/2/2015 by the Board of Supervisors of the City and County of San Francisco.