Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2014-2015 Civil Grand Jury Report, entitled “San Francisco's City Construction Program: It Needs Work”; and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

WHEREAS, Under California Penal Code, Section 933 et seq., the Board of Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior Court on the findings and recommendations contained in Civil Grand Jury Reports; and

WHEREAS, In accordance with California Penal Code, Section 933.05(c), if a finding or recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a county agency or a department headed by an elected officer, the agency or department head and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the response of the Board of Supervisors shall address only budgetary or personnel matters over which it has some decision making authority; and

WHEREAS, Under San Francisco Administrative Code, Section 2.10(a), the Board of Supervisors must conduct a public hearing by a committee to consider a final report of the findings and recommendations submitted, and notify the current foreperson and immediate past foreperson of the civil grand jury when such hearing is scheduled; and

WHEREAS, In accordance with San Francisco Administrative Code, Section 2.10(b), the Controller must report to the Board of Supervisors on the implementation of recommendations that pertain to fiscal matters that were considered at a public hearing held by a Board of Supervisors Committee; and
WHEREAS, The 2014-2015 Civil Grand Jury Report entitled “San Francisco’s City Construction Program: It Needs Work” (Report) is on file with the Clerk of the Board of Supervisors in File No. 150607, which is hereby declared to be a part of this resolution as if set forth fully herein; and

WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond to Finding Nos. 2, 3, 4, 5, 6, 7, 8, and 9, as well as Recommendation Nos. 2, 3, 4, 5, 6, 7, 8, and 9 contained in the subject Civil Grand Jury report; and

WHEREAS, Finding No. 2 states: “The current lowest bid-contracting environment is not optimal for the City, since it increases costs due to additional project change orders, and it reduces the number of quality contractors willing to bid on City projects;” and

WHEREAS, Finding No. 3 states: “The complexity of the contracting environment, especially as it relates to [Local Business Enterprises] (LBEs), reduces the pool of contractors willing to do business with the City, thereby limiting vendor selection;” and

WHEREAS, Finding No. 4 states: “Change orders are not managed uniformly across departments, which exposes the City to increased project costs;” and

WHEREAS, Finding No. 5 states: “Construction contract close out procedures are not followed, which can result in the City not receiving the services it contracted to receive;” and

WHEREAS, Finding No. 6 states: “The variety of construction projects in the City creates a mismatch between the design and engineering skills required for current projects and the skills of the staff, resulting in duplicate labor costs when outside firms are retained and excess capacity when there is a decline in construction activity;” and

WHEREAS, Finding No. 7 states: “The lack of integrated construction management systems and the failure to follow centralized construction management policies and procedures prevents the City from generating citywide construction reports;” and
WHEREAS, Finding No. 8 states: “The City does not have an independent management group reviewing citywide construction performance reports and monitoring adherence to change orders and construction contract close out policies and procedures;” and

WHEREAS, Finding No. 9 states: “San Francisco City departments do not issue final reports on construction projects that are readily available to its citizens;” and

WHEREAS, Recommendation No. 2 states: “The [Board of Supervisors] (BOS) should amend Chapter 6 of the Administrative Code to require contractor performance as an additional criterion for construction contracts;” and

WHEREAS, Recommendation No. 3 states: “The [Civil Grand Jury] (CGJ) recommends that the proposed Chapter 6 amendment make past performance a construction award criterion for all future City construction contracts including LBE subcontracts;” and

WHEREAS, Recommendation No. 4 states: “The Office of the Controller should implement a standardized change order management policy and require all City departments to adhere to any new change order policy;” and

WHEREAS, Recommendation No. 5 states: “The Office of the Controller should implement a standardized construction contract closeout policy and require all City departments to adhere to any new policy;” and

WHEREAS, Recommendation No. 6 states: “The BOS should request the [Budget and Legislative Analyst] (BLA) or [City Services Auditor] (CSA) to benchmark the City’s design and engineering workforce organizational structure against comparable cities and issue a report;” and

WHEREAS, Recommendation No. 7 states: “The Mayor should allocate financial resources in the current City budget to fund the Department of Technology hiring a consulting firm with extensive construction management expertise to develop citywide system requirements for the implementation of a construction management system;” and
WHEREAS, Recommendation No. 8 states: “The BOS should either request the CSA or BLA, or retain an outside firm, to benchmark the independent construction management structure of other cities and develop recommendations applicable to San Francisco;” and

WHEREAS, Recommendation No. 9 states: “The BOS should require all City departments to issue final project construction reports within nine months of project completion for all construction projects and for the reports to be posted on each department’s website;” and

WHEREAS, In accordance with California Penal Code Section 933.05(c), the Board of Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior Court on Finding Nos. 2, 3, 4, 5, 6, 7, 8, 9, as well as Recommendation Nos. 2, 3, 4, 5, 6, 7, 8, 9 contained in the subject Civil Grand Jury report; now, therefore, be it

RESOLVED, That the Board of Supervisors reports that they disagree partially with Finding No. 2 for reasons as follows: The City has to balance its responsibility to the taxpayers with a clear timeline and stricter oversight on project delivery and cost control; and,

be it

FURTHER RESOLVED, That the Board of Supervisors reports that they disagree partially with Finding No. 3 for reasons as follows: The Board of Supervisors passed Legislation amending Chapter 6 of the Administrative Code which took effect August 1, 2015. These changes, among other things, incorporate some industry best practices and therefore are more likely to attract contractors familiar with the most recent industry innovations, allowing us to grow our contractor pool and better serve the Public; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that they disagree partially with Finding No. 4 for reasons as follows: Though departments need to abide by their respective change order policies, having a uniform change order management policy is not practical given the differing project types and project delivery methods citywide; and, be it
FURTHER RESOLVED, That the Board of Supervisors reports that they agree with
Finding No. 5 for reasons as follows: When the Controller's City Services Auditor (CSA)
conducted an audit of the closeout procedures it found a number of shortcomings including
lack of sufficient documentation, adequate review or verification, and adherence to existing
policies and procedures; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that they disagree
partially with Finding No. 6 for reasons as follows: In addition to the wide variety of skills the
department has in-house, the use of consultants gives the department flexibility to meet the
needs of other departments and meet peak demands without the need to increase its staff,
departmental budgets and overall project costs; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that they disagree
partially with Finding No. 7 for reasons as follows: The Civil Grand Jury is correct that there is
not an integrated citywide construction management system. However the Board of
Supervisors is represented on the Capital Planning Committee and appoints members to the
General Obligation and Revenue Bond Oversight Committees which all review and monitor
activities related to construction and capital projects; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that they disagree
partially with Finding No. 8 for reasons as follows: The Jury is correct that there is not an
independent management group that monitors construction; However the Board of
Supervisors is represented on the Capital Planning Committee which monitors and prioritizes
infrastructure investments. In addition, the Board with their independent Budget and
Legislative Analyst's office regularly analyzes construction performance. Finally the CSA on a
quarterly basis presents an update on the implementation of their audits to the Government
Audit and Oversight Committee; and, be it
FURTHER RESOLVED, That the Board of Supervisors reports that they agree with Finding No. 9 for reasons as follows: While some reports are posted online and publicly available, City departments do not issue final reports when construction projects are completed; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 2 will not be implemented: The Board cannot commit to timing or outcome of future legislation; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 3 will not be implemented for reasons as follows: The Board cannot commit to timing or outcome of future legislation and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 4 will not be implemented because it is not warranted for reasons as follows: Given the wide variety of project types, sizes, budgets, and complexity undertaken by the Chapter 6 departments, a "one size fits all" approach is not in accordance with best practices; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 5 will not be implemented for reasons as follows: Although the Board of Supervisors supports the recommendation, it is not within the jurisdiction of the Board; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 6 requires further analysis for reasons as follows: A benchmarking analysis could provide important and helpful insight into best practices for how to improve the organizational structure of the City's design and engineering workforce, and merits further consideration. The Board of Supervisors will confer with their independent Budget and Legislative Analyst's office to assess how to best address this recommendation by January 2016; and, be it
FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 7 will not be implemented for reasons as follows: Although the Board of Supervisors supports the recommendation, it is not within the jurisdiction of the Board; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 8 requires further analysis for reasons as follows: This recommendation overlaps with recent and existing work of a workgroup of Chapter 6 departments. Legislation modernizing Chapter 6 went into effect August 1, 2015 after more than a year of collaboration. The next round of changes, including a shared database to track contractor performance, is being discussed now with a goal of implementation by Summer 2016. The Board of Supervisors will confer with their independent Budget and Legislative Analyst's office to assess how to best address this recommendation by January 2016; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation No. 9 requires further analysis for reasons as follows: This recommendation will be revisited by the Board of Supervisors by January 2016 as part of the ones being considered when further amendments to Chapter 6 of the Administrative Code are brought forward; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.
Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2014-2015 Civil Grand Jury Report, entitled "San Francisco's City Construction Program: It Needs Work;" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

October 01, 2015 Government Audit and Oversight Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

October 01, 2015 Government Audit and Oversight Committee - RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

October 06, 2015 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

File No. 150607

I hereby certify that the foregoing Resolution was ADOPTED on 10/6/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

10/16/15

Date Approved
I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

[Signature]
Angela Calvillo
Clerk of the Board

[Date]
10/16/15

File No.
150607