

1 [Settlement of Lawsuit]  
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3 **Ordinance authorizing settlement of the lawsuit filed by the City and County of San**  
4 **Francisco against William D. Spencer, F.W. Spencer & Son, Inc., Brisbane Mechanical**  
5 **Company, Bruce Bonar, Lou Thomas, William McGahan (together, the "Spencer**  
6 **Parties"), A. Answer, Inc. and Troy's Contracting, Inc. on January 16, 2004 in San**  
7 **Francisco Superior Court, Case No. CGC -04-429249, entitled, City and County of San**  
8 **Francisco et. al. v. F. W. Spencer & Son, Inc. et. al., with (a) the Spencer Parties paying**  
9 **\$2,000,000 by January 24, 2007, and dismissing its actions and cross-actions against**  
10 **the City and others and the Spencer Parties releasing all claims on the Moscone Center**  
11 **Expansion Project and The San Francisco Jail Replacement No. 3 Project ; and (b) A.**  
12 **Answer, Inc. and Troy's Contracting, Inc. paying \$124,000 within 60 days of final**  
13 **approval of this settlement. The Spencer Parties' action was brought against San**  
14 **Francisco, City Attorney Dennis Herrera and others, and was coordinated as part of the**  
15 **California Judicial Council Coordination Proceeding No. 4379.**

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The City Attorney is hereby authorized to settle the San Francisco 's claims  
18 against William D. Spencer, F.W. Spencer & Son, Inc., Brisbane Mechanical Company, Lou  
19 Thomas, Bruce Bonar and William McGahan (the Spencer Parties"), A. Answer, Inc. and  
20 Troy's Contracting, Inc. in the action entitled "City and County Of San Francisco et. al v. F. W.  
21 Spencer & Son, Inc., et. al., "Judicial Council Coordination Proceeding Case No. 4379, by  
22 receiving payment from the Spencer Parties in the amount of \$2,000,000 and receiving  
23 payment from A. Answer, Inc. and Troy's Contracting, Inc. jointly in the amount of \$124,000.  
24 The Spencer Parties are also to dismiss all actions and cross-actions in the actions  
25 coordinated in the above Judicial Council Proceeding and to waive (i) the \$5.0 million in

1 claims F.W. Spencer & Son, Inc. has lodged on the Moscone Center Expansion Project and  
2 (ii) all remaining claims F.W. Spencer & Son, Inc. may have on the San Francisco Jail No. 3  
3 Replacement Project.

4 Section 2. The above-named action was first filed by the City against the Spencer  
5 Parties in United States District Court for the Northern District of California on October 18,  
6 2002, Case No. C02-5086PJH, and was dismissed for want of jurisdiction in December 19,  
7 2003. The City refiled the action in San Francisco County Superior Court on January 16,  
8 2004, adding Troy's and A. Answer as defendants.

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10 APPROVED AS TO FORM AND  
RECOMMENDED:

11 DENNIS J. HERRERA  
12 City Attorney

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JOANNE HOEPER  
Chief Trial Deputy

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