

1 [Settlement of Lawsuit]

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3 **Ordinance authorizing settlement of the coordinated lawsuits, entitled Jail No. 3**  
4 **Replacement Project Cases, San Mateo County, JCCP Case No: 4422, filed by AMEC**  
5 **Construction Management, Inc. ("ACMI") against the City and County of San**  
6 **Francisco, and filed by the City and County of San Francisco and the People of the**  
7 **State of California ("San Francisco") against ACMI, its parent and sister companies,**  
8 **its Surety companies, and its bond broker.**

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

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Section 1. The City Attorney is hereby authorized to settle the actions entitled Jail  
12 No. 3 Replacement Project Cases, San Mateo County, JCCP Case No: 4422, on the  
13 following terms:

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- ACMI will waive all rights and/or claims it has against San Francisco to seek recovery of any sums, including but not limited to \$11,307,495 in withheld retention and unpaid contract sums, and \$6,528,702 in unilaterally reduced contract amounts;
- ACMI will pay San Francisco an additional \$10,000,000 in new settlement funds (to be disbursed at the earlier of (a) final resolution of the State Attorney General's action or (b) 19 months from the date of this Ordinance), ~~which monies shall be deposited into a Settlement Funding Account, and which monies shall be used to fund remaining construction at the San Bruno Jail Project (including demolition of old Jail No. 3 and construction of a new guard shack), pursuant to a negotiated design and construction or design-build contract. The competitive bidding~~

1           ~~provisions of Chapter Six of the San Francisco Administrative Code will be~~  
2           ~~waived;~~

- 3           • The Sureties will be released from liability for latent defects during the 10-year  
4           statute of repose; As substitute protection, the AMEC entities will maintain in  
5           place through April 30, 2015, a comprehensive general liability insurance policy  
6           that will cover the costs to repair property damage caused by latent defects;
- 7           • ACMI will assume all risks, including assessed penalties, arising from that State  
8           Attorney Generals "Accusation" against ACMI related to ACMI's California State  
9           Contractor's License;
- 10          • ACMI will defend, indemnify, and hold San Francisco harmless from all  
11          subcontractor and subconsultant claims, including claims by designer KMD;
- 12          • San Francisco will defend, indemnify, and hold ACMI harmless from all claims by  
13          San Francisco's jail completion contractor and consultants;
- 14          • All parties will execute a mutual release, with the exception subcontractor pass-  
15          through warranties, the rights to which San Francisco will retain;
- 16          • All parties will execute and file dismissals of all claims with prejudice, and all  
17          parties will bear their own fees and costs;
- 18          • All parties will agree that there shall be no new collateral actions filed against any  
19          other party, whether administrative or otherwise;
- 20          • All parties will acknowledge and agree that this settlement represents the  
21          compromise of disputed claims; no payment made or obligation assumed under  
22          this settlement is -- nor shall it be deemed to be or construed as -- an admission  
23          this settlement is -- nor shall it be deemed to be or construed as -- an admission  
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1 of the liability of any party; and the settlement represents neither a victory for nor  
2 a vindication of any position advocated by any party.

3 Section 2. By the terms of and payments received under the settlement, San  
4 Francisco has received satisfactory restitution for damages suffered in connection with  
5 ACMI and the San Bruno Jail Project.

6 RECOMMENDED

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8 DEPARTMENT OF PUBLIC WORKS

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10 DR. EDWARD D. REISKIN  
Director, Department of Public Works

11 RECOMMENDED

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13 SAN FRANCISCO SHERIFF'S DEPARTMENT

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15 MICHAEL HENNESSEY  
16 Sheriff, City and County of San Francisco

17 APPROVED AS TO FORM:  
18 DENNIS J. HERRERA, City Attorney

19 By: GEORGE K. WONG  
20 Deputy City Attorney