

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, and City Attorney Dennis J. Herrera on behalf of the People of the State of**
5 **California, against Ronald N. Tutor, Tutor-Saliba Corporation, Tutor-Saliba-Perini &**
6 **Buckley, J.V., Perini Corporation, Buckley & Company, Inc., American Home Insurance**
7 **Company, Fidelity and Deposit Company of Maryland, Swiss Reinsurance America**
8 **Corporation and Aetna Casualty and Surety Company, filed on November 1, 2002 in the**
9 **United States District Court, Northern District of California, Case No. 02-5286 CW**
10 **(EMC), entitled City and County of San Francisco, et al., v. Tutor-Saliba Corporation, et**
11 **al.; and the lawsuit filed by Tutor-Saliba Corporation against Dennis J. Herrera, Tutor-**
12 **Saliba Corporation v. Herrera; filed on February 19, 2004 in San Francisco Superior**
13 **Court, Case No. Civ. 434144, California Court of Appeal Case No. A0 108712, for**
14 **payment by the Tutor Defendants of \$19,000,000 to the City and County of San**
15 **Francisco. Other material terms of said settlement are: (1) payments to be made by**
16 **Tutor-Saliba Corporation or Tutor-Saliba Perini & Buckley, J.V. to the City and County**
17 **of San Francisco as follows: \$8,000,000 to be paid by June 30, 2006, \$3,000,000 to be**
18 **paid by June 30, 2007, \$3,000,000 to be paid by June 30, 2008, and \$5,000,000 to be**
19 **paid by June 30, 2009.**

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

22 Section 1. The City Attorney is hereby authorized to settle the actions entitled "City
23 and County of San Francisco, et al., v. Tutor-Saliba Corporation, et al., United States District
24 Court, Northern District of California, Case No. 02-5286 CW (EMC) and Tutor-Saliba
25 Corporation v. Herrera, San Francisco Superior Court, Case No. Civ. 434144, California Court

1 of Appeal, First Appellate District, Case No. A0 108712, in accordance with the terms of the
2 "Settlement Agreement and Release" executed by the City Attorney and the Tutor Defendants
3 on February 17, 2006, a copy of which is on file with the Board in File No. _____, which is
4 hereby declared to be a part of this Ordinance as if it were set forth fully herein, which terms
5 include the payment by Tutor-Saliba Corporation or Tutor-Saliba-Perini & Buckley, J.V. to the
6 City and County of San Francisco of \$19,000,000 as follows: \$8,000,000 by June 30, 2006,
7 \$3,000,000 by June 30, 2007, \$3,000,000 by June 30, 2008, and \$5,000,000 by June 30,
8 2009.

9 Section 2. City and County of San Francisco, et al., v. Tutor-Saliba Corp., et al. was
10 filed in the United States District Court for the Northern District of California on November 1,
11 2002, and the following parties were named in the lawsuit: the City and County of San
12 Francisco, and City Attorney Dennis J. Herrera on behalf of the People of the State of
13 California ("Plaintiffs") and Ronald N. Tutor, Tutor-Saliba Corporation, Tutor-Saliba-Perini &
14 Buckley, J.V., Perini Corporation, Buckley & Company, Inc. ("the Tutor Defendants"), and
15 American Home Insurance Company, Fidelity and Deposit Company of Maryland, Swiss
16 Reinsurance America Corporation and Aetna Casualty and Surety Company ("the Surety
17 Defendants"), and the Tutor Defendants filed an Answer and Counterclaim against Plaintiffs in
18 that action on April 29, 2005 and an Answer and First Amended Counterclaim on May 18,
19 2005. Tutor-Saliba Corporation v. Herrera was filed in San Francisco Superior Court on
20 February 19, 2004, dismissed by the Superior Court on November 5, 2004, and affirmed on
21 appeal on January 10, 2006.

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APPROVED AS TO FORM AND
RECOMMENDED:

DENNIS J. HERRERA
City Attorney

THERESE M. STEWART
Chief Deputy City Attorney