

FILE NO. 120615

ORDINANCE NO.

[Settlement of Lawsuit – Waterfront Watch - \$225,000]

**Ordinance authorizing settlement of the lawsuit filed by Waterfront Watch against the City and County of San Francisco for \$225,000; the lawsuit was filed on February 23, 2012, in San Francisco Superior Court, Case No. CPF-12-511968; entitled Waterfront Watch, et al., v. City and County of San Francisco, et al.; other material terms of said settlement are establishing a process for review of Pier 29 rehabilitation work, Port technical assistance to reduce air emissions at Pier 27, agreement not to place a Jumbotron on the water in Aquatic Park Lagoon.**

NOTE: Additions are *single-underline italics Times New Roman*;  
deletions are ~~*strike-through italics Times New Roman*~~.  
Board amendment additions are double-underlined;  
Board amendment deletions are ~~strike-through normal~~.

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

Section 1. The City Attorney is hereby authorized to settle the action entitled Waterfront Watch, et al., v. City and County of San Francisco, et al., San Francisco Superior Court, Court No. CPF-12-511968 by the payment of \$75,000 for attorneys' fees and \$150,000 to conduct a bird study, and on such other material terms as set forth in the Settlement Agreement and General Release contained in Board of Supervisors File No. 120615, or such amended terms as do not materially increase the City's obligations or decrease the City's benefits.

Section 2. The above-named action was filed in San Francisco Superior Court on February 23, 2012, and the following parties were named in the lawsuit: Petitioners Waterfront Watch and Does 1 – 10; Respondents City and County of San Francisco, and numerous Real Parties in Interest including America's Cup Event Authority, San Francisco

1 America's Cup Organizing Committee, America's Cup Race Management, potential racing  
2 teams including Golden Gate Yacht Club of San Francisco, Oracle Racing, Inc, Club  
3 Nautico di Roma, Mascalzone Latino, Kungliga Svenska Segel Sallskapet, Artemis Racing,  
4 Royal New Zealand Yacht Squadron, *et al.*, and the United States Army Corps of Engineers,  
5 Winzler & Kelly Constructors & Structus Inc. Joint Venture, Dutra Construction Co. Inc.,  
6 Kaplan McLaughlin, Diaz Architects & Pfau Long Architecture Joint Venture, and Turner  
7 Construction Company.

8 Section 3. This Board reviewed the environmental impact report prepared for the  
9 Cruise Terminal Project and the 34<sup>th</sup> America's Cup Project and approved the 34<sup>th</sup> America's  
10 Cup Project in Resolution No. 109-12, which Resolution included environmental findings  
11 required by the California Environmental Quality Act. The actions contemplated under this  
12 Settlement Agreement do not require additional environmental review for the reasons set  
13 forth in the Planning Department memorandum dated June 8, 2012 contained in Board of  
14 Supervisors File No. 120615.

15 APPROVED AS TO FORM AND  
16 RECOMMENDED:

RECOMMENDED:  
SAN FRANCISCO PORT COMMISSION

17 DENNIS J. HERRERA  
18 City Attorney

19  
20 \_\_\_\_\_  
21 MARLENA G. BYRNE  
22 Deputy City Attorney

20 \_\_\_\_\_  
21 MONIQUE MOYER  
22 EXECUTIVE DIRECTOR

23 FUNDS AVAILABLE:

APPROVED:

24 \_\_\_\_\_  
25 BEN ROSENFELD  
26 Controller

24 \_\_\_\_\_  
25 AMY QUESADA, SECRETARY  
26 PORT COMMISSION