

File No. 160772 Committee Item No. 21  
 Board Item No. \_\_\_\_\_

**COMMITTEE/BOARD OF SUPERVISORS**  
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Committee: Government Audit and Oversight Date July 21, 2016

Board of Supervisors Meeting Date \_\_\_\_\_  
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- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
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- ORDINANCE 107-13
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Completed by: Erica Major Date July 15, 2016  
 Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Settlement Of Unlitigated Claim - Landmark American Insurance Company and RSUI  
2 Indemnity Company - City To Receive \$700,000]

3 **Resolution approving settlement of the unlitigated claim of the City and County of San**  
4 **Francisco against Landmark American Insurance Company and RSUI Indemnity**  
5 **Company for \$700,000; the claim involves attorney’s fees and costs incurred by the**  
6 **City defending claims and actions related to the water main break in the area of the**  
7 **2600 and 2700 blocks of 15th Avenue and the 300 and 400 blocks of Wawona Street on**  
8 **February 27, 2013.**

9  
10 WHEREAS, The City has a claim against Landmark American Insurance Company and  
11 RSUI Indemnity Company (collectively “Carriers”) as an additional named insured for recovery  
12 of attorney’s fees and costs incurred defending third-party claims and actions arising from a  
13 City water main break that discharged water in the area of the 2600 and 2700 blocks of 15th  
14 Avenue and the 300 and 400 blocks of Wawona Street on February 27, 2013; and

15 WHEREAS, The City Attorney has proposed settlement of the claim, calling for the  
16 payment of \$700,000 from the Carriers to the City; now, therefore, be it

17 **RESOLVED**, That pursuant to Administrative Code, Section 10.24(b), the Board of  
18 Supervisors hereby authorizes the City Attorney to settle this unlitigated claim against the  
19 Carriers for \$700,000.

20 APPROVED AS TO FORM AND  
21 RECOMMENDED:

RECOMMENDED:

22 DENNIS J. HERRERA  
City Attorney

SAN FRANCISCO PUBLIC UTILITIES  
COMMISSION

23 

23 

24 MATTHEW R. ROTHSCHILD  
Chief of Claims Division

24 HARLAN L. KELLY, JR.  
General Manager, San Francisco Public  
25 Utilities Commission

1 [Settlement of Claims, Litigation, and Appropriation - SFPUC Water Pipeline Break - 15th  
2 Avenue and Wawona Street - Not to Exceed \$4,000,000]

3 **Ordinance authorizing the Public Utilities Commission (SFPUC) and the City Attorney's**  
4 **Office to approve settlements of claims or litigation arising out of the February 27,**  
5 **2013, accidental break of the SFPUC's water transmission pipeline on 15<sup>th</sup> Avenue**  
6 **between West Portal Avenue and Wawona Street in San Francisco for amounts**  
7 **exceeding \$25,000 per claim, notwithstanding Administrative Code, Section 10.22**  
8 **et.seq., subject to a total amount not to exceed \$4,000,000 if the Controller certifies**  
9 **availability of funds, and subject to periodic reporting to the Board of Supervisors**  
10 **Rules Committee; and appropriating \$4,000,000 from the Water Enterprise fund balance**  
11 **for such purpose.**

12 NOTE: Additions are single-underline italics Times New Roman;  
13 deletions are ~~strike-through italics Times New Roman~~.  
14 Board amendment additions are double-underlined;  
15 Board amendment deletions are ~~strikethrough-normal~~.

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

17 Section 1. Findings. On February 27, 2013, at approximately 3 AM, a San Francisco  
18 Public Utilities Commission (SFPUC) 16" water transmission pipeline, located between West  
19 Portal Avenue and Wawona Street, ruptured in front of 2733 15th Avenue, and approximately  
20 twenty-five residential properties were affected when the water flow overwhelmed catch  
21 basins in the area, resulting in damage to personal and/or real property (the "February 27<sup>th</sup>  
22 Accident"). The purpose of this legislation is to establish an expedited settlement procedure  
23 to facilitate the timely resolution of claims or litigation arising from the February 27<sup>th</sup> Accident  
24 to enable prompt payment to those affected.

1 Section 2. Notwithstanding San Francisco Administrative Code Sections 10.22 et.  
2 seq., which require Board of Supervisors approval of each settlement of a litigated or  
3 unlitigated claim in excess of twenty five thousand (\$25,000), the Board hereby authorizes  
4 litigated or unlitigated claims arising out of the February 27<sup>th</sup> Accident to be settled and  
5 compromised on the written recommendation of the San Francisco Public Utilities  
6 Commission, with the written approval of the City Attorney, for settlement amounts in excess  
7 of \$25,000. The total amount may not exceed four million (\$4,000,000) dollars for all such  
8 settlements; provided, however, that the Board of Supervisors may by resolution increase the  
9 \$4,000,000 limit. In all cases, the Controller must first certify that sufficient funds are available  
10 from the proper funds or appropriation to pay each claim as compromised and settled. At  
11 least once every six (6) months, the SFPUC and City Attorney shall submit periodic reports to  
12 the Board of Supervisors Rules Committee on the settlement of claims or litigation arising out  
13 of the February 27<sup>th</sup> Accident, and the SFPUC and City Attorney shall make additional reports  
14 at such times as directed by the Chair of the Rules Committee.

15 Section 3. The Board herein appropriates four million (\$4,000,000) dollars from the  
16 Water Enterprise fund balance for use by the SFPUC for purposes of settlement of claims or  
17 litigation arising out of the February 27<sup>th</sup> Accident.

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1 Section 4. Effective Date. This ordinance shall become effective 30 days from the  
2 date of passage.

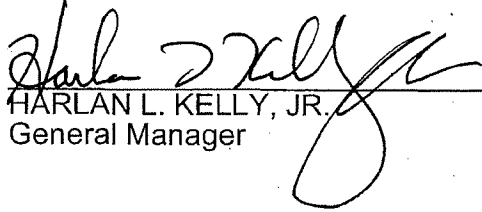
3  
4 APPROVED AS TO FORM AND  
5 RECOMMENDED:

6 DENNIS J. HERRERA  
7 City Attorney

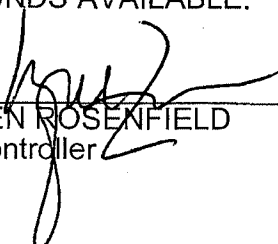
8   
9 NOREEN AMBROSE  
10 Utilities General Counsel

RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES  
COMMISSION

11   
12 HARLAN L. KELLY, JR.  
13 General Manager

14 FUNDS AVAILABLE:

15   
16 BEN ROSENFELD  
17 Controller

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City and County of San Francisco

Tails  
Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 130465

Date Passed: June 11, 2013

Ordinance authorizing the Public Utilities Commission (SFPUC) and the City Attorney's Office to approve settlements of claims or litigation arising out of the February 27, 2013, accidental break of the SFPUC's water transmission pipeline on 15th Avenue between West Portal Avenue and Wawona Street in San Francisco for amounts exceeding \$25,000 per claim, notwithstanding Administrative Code, Section 10.22 et.seq., subject to a total amount not to exceed \$4,000,000 if the Controller certifies availability of funds, and subject to periodic reporting to the Board of Supervisors Rules Committee; and appropriating \$4,000,000 from the Water Enterprise Fund Balance for such purpose.

May 22, 2013 Budget and Finance Sub-Committee - RECOMMENDED

June 04, 2013 Board of Supervisors - PASSED, ON FIRST READING


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


June 11, 2013 Board of Supervisors - FINALLY PASSED

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

File No. 130465

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 6/11/2013 by the Board of Supervisors of the City and County of San Francisco.

  
Angela Calvillo  
Clerk of the Board

  
Mayor

6/12/13  
Date Approved

1 [Settlement or Policy Limits Demand of Unlitigated Claim - Precision Engineering, Inc. - City to  
2 Demand or Receive \$11,000,000]

3 **Resolution approving settlement of the unlitigated claim of the City and County of San**  
4 **Francisco against Precision Engineering, Inc., and its carriers for \$11,000,000; or**  
5 **alternatively authorizing the City Attorney to make a binding policy limits demand.**  
6

7 WHEREAS, The City has a potential cause of action and claim against Precision  
8 Engineering, Inc. ("Precision") for damages arising from a City water main break that  
9 discharged water in the area of the 2600 and 2700 blocks of 15th Avenue and the 300 and  
10 400 blocks of Wawona Street on February 27, 2013 ("Wawona Incident"); and

11 WHEREAS, The City Attorney has proposed settlement of the claim, calling for the  
12 payment of \$11,000,000 from Precision to the City, representing payment of Precision's  
13 insurance policy limits; and

14 WHEREAS, Should Precision reject that proposed settlement, the City Attorney seeks  
15 authority to make a policy limits demand against Precision, which would result in a binding  
16 settlement agreement if accepted by Precision; now, therefore, be it

17 RESOLVED, That pursuant to Section 10.24(b) of the Administrative Code, the City  
18 Attorney is hereby authorized to settle this unlitigated claim against Precision with Precision's  
19 payment of \$11,000,000 to the City; or alternatively, if Precision rejects the settlement  
20 demand, the City Attorney is authorized to make a policy limits demand of \$11,000,000  
21 against Precision. If either the currently proposed settlement or the alternative policy limits  
22 demand is accepted, settlement of the unlitigated claim will include the following terms:

- 23 • Precision shall pay the City all reasonable attorney's fees and costs incurred  
24 defending and/or prosecuting matters arising from the Wawona Incident through the  
25 date of settlement;

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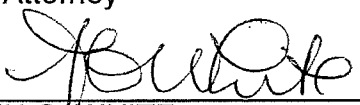
- The City shall defend, indemnify, and hold Precision harmless from all remaining third-party claims arising from the Wawona Incident;
- Precision shall cooperate fully with the City in all remaining claims and litigation arising from the Wawona Incident;
- The City reserves all rights to pursue claims against Precision for latent defects and remaining warranties in Precision's construction project work.

APPROVED AS TO FORM AND RECOMMENDED:

RECOMMENDED:

DENNIS J. HERRERA  
City Attorney

SAN FRANCISCO PUBLIC UTILITIES COMMISSION



JOHN G. WHITE  
Deputy City Attorney

HARLAN L. KELLY, JR.  
General Manager, San Francisco Public Utilities Commission

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**City and County of San Francisco**

**Tails**

**Resolution**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 150005

**Date Passed:** January 27, 2015

Resolution approving settlement of the unlitigated claim of the City and County of San Francisco against Precision Engineering, Inc., and its carriers for \$11,000,000; or alternatively authorizing the City Attorney to make a binding policy limits demand.

January 15, 2015 Rules Committee - RECOMMENDED..

January 27, 2015 Board of Supervisors - ADOPTED

Ayes: 10 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Mar, Tang,  
Wiener and Yee  
Excused: 1 - Kim

File No. 150005

I hereby certify that the foregoing  
Resolution was ADOPTED on 1/27/2015 by  
the Board of Supervisors of the City and  
County of San Francisco.

Angela Calvillo  
Clerk of the Board

  
Mayor

Date Approved

