

1 [Settlement of Lawsuit - National Union - City to Receive \$925,000; Appropriating Settlement  
2 Proceeds]

3 **Ordinance authorizing settlement of the lawsuit entitled *City and County of San***  
4 ***Francisco v. National Union, etc., et al., United States District Court, N.D. Cal., Case No:***  
5 ***CV-103385-SI, arising from an insurance dispute involving policies issued by National***  
6 ***Union Fire Insurance Company of Pittsburgh and sister company Chartis Specialty***  
7 ***Insurance Company to the San Francisco Public Utilities Commission, calling for***  
8 ***payment of \$925,000 from National Union to the City and County of San Francisco and***  
9 ***including other material terms of said settlement; and appropriating settlement***  
10 ***proceeds.***

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

13 Section 1. The City Attorney is hereby authorized to settle the action entitled *City and*  
14 *County of San Francisco v. National Union, etc., et al., United States District Court, N.D. Cal.,*  
15 *Case No: CV-103385-SI, by payment of \$925,000 from National Union Fire Insurance*  
16 *Company of Pittsburgh, PA ("National Union") to the City and County of San Francisco. In*  
17 *addition, the settlement shall contain the following material terms: (1) National Union will have*  
18 *no further obligations under Policy Nos. 9331863, 9332415, 9333054, 7043168 and Chartis*  
19 *Specialty Insurance Company ("Chartis") will have no further obligations under Excess Liability*  
20 *Policy No. 7411476 ("Policies") for claims arising out of or related to the following actions:*  
21 *Mitchell Engineering v. City and County of San Francisco, U.S.D.C., Northern District of*  
22 *California, Case No. CV 08-4022 - SI; Thunder Electric Inc. v. Mitchell Engineering, Inc., et al.,*  
23 *California Superior Court, San Francisco County, No. CGC - 06-458051; Mitchell Engineering,*  
24 *Inc. v. City and County of San Francisco, California Superior Court, San Francisco County, No.*  
25 *CGC-07-468361; Mitchell Engineering v. City and County of San Francisco, et al., California*

1 Superior Court, Alameda County, No. RG 0733 9056; *Bay Area Reinforcing v. Mitchell*  
2 *Engineering/Obayashi Corporation*, California Superior Court, Santa Clara County, No. 1-08-  
3 CV-116915; *City and County of San Francisco v. Mitchell Engineering*, California Superior  
4 Court, San Francisco County, No. CGC-07-465522; and *Mitchell Engineering v. City and*  
5 *County of San Francisco*, California Superior Court, San Francisco County, No. CGC-07-  
6 465524, and any other action or claim by Mitchell Engineering against San Francisco ("related  
7 litigation"); (2) the City and County of San Francisco will defend, indemnify, and hold harmless  
8 National Union and Chartis with respect to any claims asserted by current and/or former  
9 employees of the San Francisco Public Utilities Commission ("SFPUC") Michael Quan, Alan  
10 Wong, or Anthony Irons arising under the Policies with respect to the related litigation; (3) All  
11 parties will execute a mutual release; (4) the City and County of San Francisco will dismiss all  
12 claims with prejudice, and all parties will bear their own fees and costs; and (5) In any action  
13 seeking to enforce the settlement, the prevailing party shall recover reasonable attorneys' fees  
14 and costs.

15 Section 2. Settlement proceeds of \$925,000 are herein appropriated in a like amount  
16 to fund the SFPUC's attorneys fees and legal expenses related to this settlement agreement,  
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1 or to litigation matters between the City and County of San Francisco and Mitchell  
2 Engineering concerning SFPUC projects or actions.

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4 APPROVED AS TO FORM AND  
5 RECOMMENDED:

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7 DENNIS J. HERRERA  
8 City Attorney

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10 LOUISE SIMPSON  
11 Deputy City Attorney

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13 FUNDS AVAILABLE:

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15 BEN ROSENFELD  
16 Controller

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RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES  
COMMISSION

EDWARD HARRINGTON  
General Manager, San Francisco Public  
Utilities Commission

APPROVED:

Secretary, Public Utilities Commission