

1 [Settlement of Lawsuit - Lexington Insurance - City to Receive \$2,750,000; Appropriating
2 Settlement Proceeds]

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4 **Ordinance authorizing settlement of the lawsuit entitled *City and County of San***
5 ***Francisco v. Lexington Insurance Company*, San Francisco County Superior Court**
6 **Case No: CGC-10-498967 (Action), removed to United States District Court, N.D. Cal.,**
7 **Case No: 3:10-CV1-02188-SI, arising from an insurance coverage dispute involving a**
8 **claims-made Designers and Construction (i.e., professional liability) Project Specific**
9 **Professional Liability and Pollution Liability Policy issued by Lexington Insurance**
10 **Company (Lexington) to the San Francisco Public Utilities Commission for the period**
11 **February 1, 2002, to February 1, 2006, policy number 1152114 (Lexington Policy),**
12 **calling for payment of \$2,750,000 from Lexington to the City and County of San**
13 **Francisco and including other material terms of said settlement: (1) Lexington will have**
14 **no further obligations under the Lexington Policy and said policy shall be considered**
15 **null and void and of no further force and effect; (2) San Francisco will defend and hold**
16 **harmless and indemnify Lexington from and against any demand against Lexington**
17 **made under the Lexington Policy; (3) All parties will execute a mutual release; (3) San**
18 **Francisco will execute and file a dismissal of all claims with prejudice; (4) the City and**
19 **Lexington each shall bear its own legal costs and fees arising from this action; and**
20 **appropriating the full proceeds from the settlement to fund the San Francisco Public**
21 **Utilities Commission's attorney fees and legal expenses related to certain pending**
22 **litigation matters.**

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

24 Section 1. The City Attorney is hereby authorized to settle the action entitled *City and*
25 *County of San Francisco v. Lexington Insurance Company*, San Francisco County Superior

1 Court Case No: CGC-10-498967 ("Action"), removed to United States District Court, N.D.
2 Cal., Case No: 3:10-CV1-02188-SI, by the payment of \$2,750,000 from Lexington to San
3 Francisco. In addition, the settlement shall contain the following material terms: (1) Lexington
4 will have no further obligations under the Lexington Policy and said policy shall be considered
5 null and void and of no further force and effect; (2) San Francisco will defend and hold
6 harmless and indemnify Lexington from and against any demand against Lexington made
7 under the Lexington Policy; (3) All parties will execute a mutual release; (3) San Francisco will
8 execute and file a dismissal of all claims with prejudice; and (4) the City and Lexington each
9 shall bear its own legal costs and fees arising from this action.

10 Section 2. Settlement proceeds of \$2, 750,000 are herein appropriated in a like
11 amount to fund the SFPUC's attorneys fees and legal expenses related to this settlement
12 agreement, or to litigation matters between the City and County of San Francisco and Mitchell
13 Engineering concerning SFPUC projects or actions.

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15 APPROVED AS TO FORM AND
RECOMMENDED:

16 DENNIS J. HERRERA
17 City Attorney

18 _____
19 LOUISE SIMPSON
Deputy City Attorney

20
21 FUNDS AVAILABLE:

22
23 _____
24 BEN ROSENFELD
Controller

RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

25

EDWARD HARRINGTON
General Manager, San Francisco Public
Utilities Commission

APPROVED:

Secretary, Public Utilities Commission