

File No. 101463

Committee Item No. 5

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date: December 13, 2010

Board of Supervisors Meeting

Date: _____

Cmte Board

- | | | |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Ethics Form 126 |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Victor Young

Date: December 10, 2010

Completed by: Victor Young

Date: _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

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

3
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.

14
15 APPROVED AS TO FORM AND
RECOMMENDED:

16 DENNIS J. HERRERA
17 City Attorney

18 LOUISE SIMPSON
19 Deputy City Attorney

20
21 FUNDS AVAILABLE:

22
23 BEN ROSENFELD
24 Controller

RECOMMENDED:

25
SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

EDWARD HARRINGTON
General Manager, San Francisco Public
Utilities Commission

APPROVED:

Secretary, Public Utilities Commission