

1 [Settlement of Lawsuit]

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3 **Ordinance authorizing settlement of the lawsuit filed by the City and County of San**

4 **Francisco against William D. Spencer, F.W. Spencer & Son, Inc., Brisbane Mechanical**

5 **Company, Bruce Bonar, Lou Thomas, William McGahan (together, the "Spencer**

6 **Parties"), A. Answer, Inc. and Troy's Contracting, Inc. on January 16, 2004 in San**

7 **Francisco Superior Court, Case No. CGC -04-429249, entitled, City and County of San**

8 **Francisco et. al. v. F. W. Spencer & Son, Inc. et. al., with (a) the Spencer Parties paying**

9 **\$2,000,000 by January 24, 2007, and dismissing its actions and cross-actions against**

10 **the City and others and the Spencer Parties releasing all claims on the Moscone Center**

11 **Expansion Project and The San Francisco Jail Replacement No. 3 Project ; and (b) A.**

12 **Answer, Inc. and Troy's Contracting, Inc. paying \$124,000 within 60 days of final**

13 **approval of this settlement. The Spencer Parties' action was brought against San**

14 **Francisco, City Attorney Dennis Herrera and others, and was coordinated as part of the**

15 **California Judicial Council Coordination Proceeding No. 4379.**

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

17 Section 1. The City Attorney is hereby authorized to settle the San Francisco 's claims

18 against William D. Spencer, F.W. Spencer & Son, Inc., Brisbane Mechanical Company, Lou

19 Thomas, Bruce Bonar and William McGahan (the Spencer Parties"), A. Answer, Inc. and

20 Troy's Contracting, Inc. in the action entitled "City and County Of San Francisco et. al v. F. W.

21 Spencer & Son, Inc., et. al., "Judicial Council Coordination Proceeding Case No. 4379, by

22 receiving payment from the Spencer Parties in the amount of \$2,000,000 and receiving

23 payment from A. Answer, Inc. and Troy's Contracting, Inc. jointly in the amount of \$124,000.

24 The Spencer Parties are also to dismiss all actions and cross-actions in the actions


25 coordinated in the above Judicial Council Proceeding and to waive (i) the \$5.0 million in

1 claims F.W. Spencer & Son, Inc. has lodged on the Moscone Center Expansion Project and
2 (ii) all remaining claims F.W. Spencer & Son, Inc. may have on the San Francisco Jail No. 3
3 Replacement Project.

4 Section 2. The above-named action was first filed by the City against the Spencer
5 Parties in United States District Court for the Northern District of California on October 18,
6 2002, Case No. C02-5086PJH, and was dismissed for want of jurisdiction in December 19,
7 2003. The City refiled the action in San Francisco County Superior Court on January 16,
8 2004, adding Troy's and A. Answer as defendants.

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10 APPROVED AS TO FORM AND
RECOMMENDED:

11 DENNIS J. HERRERA
12 City Attorney

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14 _____
JOANNE HOEPER
15 Chief Trial Deputy
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City and County of San Francisco

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

Tails Ordinance

File Number: 061359

Date Passed:

Ordinance authorizing settlement of the lawsuit filed by the City and County of San Francisco against William D. Spencer, F.W. Spencer & Son, Inc., Brisbane Mechanical Company, Bruce Bonar, Lou Thomas, William McGahan (together, the "Spencer Parties"), A. Answer, Inc. and Troy's Contracting, Inc. on January 16, 2004 in San Francisco Superior Court, Case No. CGC -04-429249, entitled, City and County of San Francisco et. al. v. F. W. Spencer & Son, Inc. et. al., with (a) the Spencer Parties paying \$2,000,000 by January 24, 2007, and dismissing its actions and cross-actions against the City and others and the Spencer Parties releasing all claims on the Moscone Center Expansion Project and The San Francisco Jail Replacement No. 3 Project ; and (b) A. Answer, Inc. and Troy's Contracting, Inc. paying \$124,000 within 60 days of final approval of this settlement. The Spencer Parties' action was brought against San Francisco, City Attorney Dennis Herrera and others, and was coordinated as part of the California Judicial Council Coordination Proceeding No. 4379.

October 31, 2006 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

November 7, 2006 Board of Supervisors — FINALLY PASSED

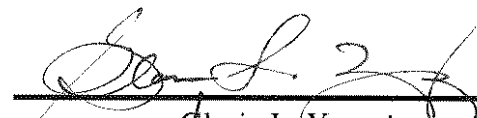
Ayes: 9 - Daly, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin,
Sandoval
Absent: 1 - Alioto-Pier
Excused: 1 - Ammiano

File No. 061359

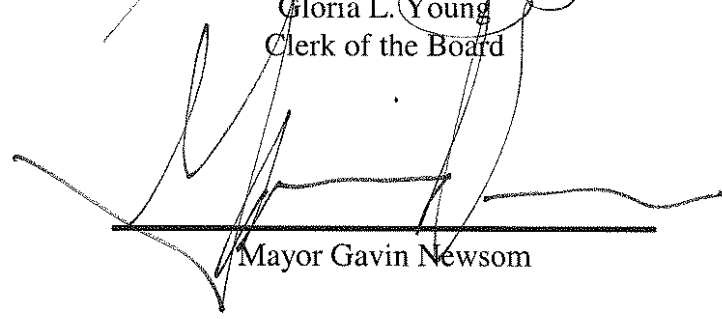
I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on November 7, 2006 by the Board of Supervisors of the City and County of San Francisco.

NOV 17 2006

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Gavin Newsom