

1 [Settlement of Lawsuit - National Union – Receipt of \$925,000]

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

10
11 Be it ordained by the People of the City and County of San Francisco:

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

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,
17
18
19
20
21
22
23
24
25

1 or to litigation matters between the City and County of San Francisco and Mitchell
2 Engineering concerning SFPUC projects or actions.

3
4 APPROVED AS TO FORM AND
5 RECOMMENDED:

6 DENNIS J. HERRERA
7 City Attorney

8 See File for Signature
9 LOUISE SIMPSON
10 Deputy City Attorney

11 FUNDS AVAILABLE:

12 See File for Signature
13 BEN ROSENFELD
14 Controller

RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

See File for Signature

EDWARD HARRINGTON
General Manager, San Francisco Public
Utilities Commission

APPROVED:

See File for Signature

Secretary, Public Utilities Commission



City and County of San Francisco
Tails
Ordinance

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

File Number: 101600

Date Passed: March 08, 2011

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

February 17, 2011 Rules Committee - RECOMMENDED..

March 01, 2011 Board of Supervisors - PASSED, ON FIRST READING

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

March 08, 2011 Board of Supervisors - FINALLY PASSED

Ayes: 11 - Avalos, Campos, Chiu, Chu, Cohen, Elsbernd, Farrell, Kim, Mar, Mirkarimi and Wiener

File No. 101600

I hereby certify that the foregoing Ordinance was FINALLY PASSED on 3/8/2011 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Edwin Lee

3/10/11

Date Approved