

1 [Settlement of Claim]

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3 **Resolution approving Settlement of Claim by City and County of San Francisco ("San**
4 **Francisco") against the City of Daly City ("Daly City").**

5
6 WHEREAS, Daly City discharges stormwater to the Pacific Ocean through the Vista
7 Grande Canal ("Canal") and Vista Grande Tunnel ("Tunnel") system;

8 WHEREAS, San Francisco contends that as a result of Daly City's use of the Canal
9 and Tunnel system, the canal overflowed at several locations onto John Muir Drive and Lake
10 Merced Boulevard into Lake Merced, causing natural resource damage to Lake Merced, and
11 erosion damage to San Francisco's public streets, the adjacent public recreational trail, and
12 the lakeside embankment as water from the canal flowed towards Lake Merced;

13 WHEREAS, A dispute has arisen between San Francisco and Daly City regarding Daly
14 City's obligation to reimburse San Francisco for the costs of such repairs;

15 WHEREAS, San Francisco and Daly City wish to settle this dispute without resort to
16 litigation;

17 WHEREAS, This settlement is the compromise of disputed claims and is not to be
18 construed as an admission of liability on the part of Daly City, which expressly denies any
19 such liability; now, therefore, be it

20 RESOLVED, That settlement of San Francisco's claim against Daily City is hereby
21 approved on the following grounds:

22 Daly City shall pay San Francisco the settlement amount of \$325,000 (Three Hundred
23 Twenty-Five Thousand Dollars), which funds shall reimburse the Department of Public Works
24 for past monies spent to repair flood damage;

1 San Francisco shall release Daly City only from claims for past monies spent to date by
2 San Francisco to repair property damage caused by flooding from Daly City's storm water
3 drainage system;

4 San Francisco expressly reserves all rights to seek compensation from Daly City for all
5 costs incurred in the future to repair currently existing damage as well as to repair future
6 damage caused by flooding from Daly City's storm water drainage system;

7 San Francisco further expressly reserves the right to commence such repairs at any
8 time that it deems appropriate and to seek compensation from Daly City therefore; and

9 San Francisco reserves all rights to sue Daly City, as appropriate, in the future for all
10 claims, other than those released by the Settlement Agreement, including claims for injunctive
11 relief, inverse condemnation, nuisance, dangerous condition of public property, and breach of
12 contract.

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14 APPROVED:

15 DENNIS J. HERRERA
16 City Attorney

17 Joanne Hoepfer
18 JOANNE HOEPER
19 Chief Trial Deputy

RECOMMENDED:

Department of Public Works

Fred Abadi
20 FRED V. ABADI
21 Director of Public Works

APPROVED:

[Signature]
22 SECRETARY OF THE COMMISSION
23 Public Utilities Commission
24
25



City and County of San Francisco

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

**Tails
Resolution**

File Number: 060569

Date Passed:

Resolution approving Settlement of Claim by City and County of San Francisco ("San Francisco") against the City of Daly City ("Daly City").

June 6, 2006 Board of Supervisors — ADOPTED

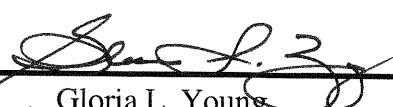
Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Ma, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

File No. 060569

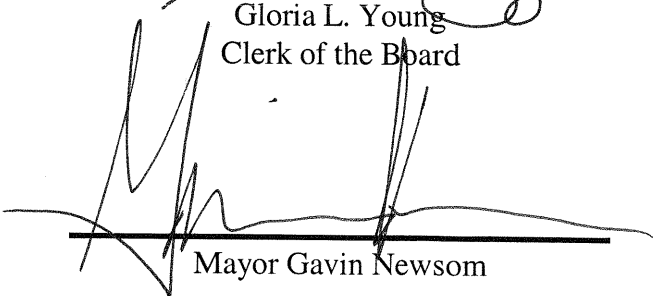
I hereby certify that the foregoing Resolution was ADOPTED on June 6, 2006 by the Board of Supervisors of the City and County of San Francisco.

JUN 14 2006

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Gavin Newsom