

1 [Settlement of Lawsuit]

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**Ordinance authorizing settlement of the eminent domain action filed by the City and County of San Francisco against Myers Natoma Venture, LLC, filed on October 8, 2004 and amended on November 5, 2004, in San Francisco Superior Court, No. 04-435-334; entitled City and County of San Francisco, et al., v. Myers Natoma Venture, LLC, et al.; and authorizing settlement of the lawsuit filed by Myers Natoma Venture and Myers Development Company against the City and County of San Francisco, the Transbay Joint Powers Authority, and the Peninsula Corridor Joint Powers Board, filed on July 16, 2004 in San Francisco Superior Court, No. 04-504-363, entitled Myers Natoma Development, et al., v. City and County of San Francisco, et al., for fifty-eight million dollars (\$58,000,000) payable by the Transbay Joint Powers Authority with funding from the San Francisco County Transportation Authority and the Metropolitan Transportation Commission; other material terms of said settlement are that the San Francisco County Transportation Authority ~~City and County of San Francisco~~ and the Metropolitan Transportation Commission are to take title to 80 Natoma Street if the Transbay Terminal Project fails to meet deadlines in the Cooperative Agreement for commencement of terminal operations, Myers waives any right to refile claims related to the June 2004 suspension of its permit for 80 Natoma, as well as the terms and conditions as provided in Exhibit A.**

Note: Additions are *single-underline italics Times New Roman*;  
 deletions are ~~*strikethrough italics Times New Roman*~~.  
 Board amendment additions are double underlined.  
 Board amendment deletions are ~~strikethrough normal~~.

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

1           Section 1. The City Attorney is hereby authorized to settle the eminent domain action  
2 entitled "City and County of San Francisco, et al., v. Myers Natoma Venture, et al.,"  
3 San Francisco Superior Court, No. 04-435-334; and the action under the California  
4 Environmental Quality Act ("CEQA"), California Public Resources Code section 21000 et seq.  
5 entitled "Myers Natoma Venture, et al., v. City and County of San Francisco, et al.,"  
6 San Francisco Superior Court, No. 04-504-363, by the payment by the Transbay Joint Powers  
7 Authority, with funding from the San Francisco County Transportation Authority and the  
8 Metropolitan Transportation Commission, of fifty-eight million dollars (\$58,000,000); Myers  
9 waives any right to refile claims related to the June 2004 suspension of its permit for  
10 80 Natoma; and by the terms and conditions as provided in Exhibit A on file with the Clerk of  
11 the Board of Supervisors in File No. 051674. Provided that the terms and conditions of  
12 Exhibit A are amended by the parties so that the San Francisco County Transportation  
13 Authority is substituted for the City and County of San Francisco in subparagraph 6.4 (g).

14           Section 2. The eminent domain action entitled City and County of San Francisco et al.,  
15 v. Myers Natoma Venture, et al., was filed in San Francisco Superior Court on October 8,  
16 2004, and amended on November 5, 2004, and the following parties were named in the  
17 lawsuit: plaintiff City and County of San Francisco, and defendants Myers Natoma Venture,  
18 LLC, the Prudential Insurance Company of America, Old Republic Title Company, iStar  
19 Financial, Incorporated, Turner Construction Company, 80 Natoma, LLC, all persons unknown  
20 claiming an interest in the property, and Does 1 through 100.

21           Section 3. The CEQA action entitled Myers Natoma Venture, et al., v. City and County  
22 of San Francisco et al., was filed in San Francisco Superior Court on July 16, 2004, and the  
23 following parties were named in the lawsuit: Petitioners Myers Natoma Venture, LLC, Myers  
24 Development Company, Respondents City and County of San Francisco, San Francisco  
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1 Planning Commission, Peninsula Corridor Joint Powers Board and the Transbay Joint Powers  
2 Authority.

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4 APPROVED AS TO FORM AND  
5 RECOMMENDED:

6 DENNIS J. HERRERA  
7 City Attorney

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THERESE STEWART  
9 Chief Deputy City Attorney

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