

1 [Settlement of Lawsuit]

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3 **Ordinance authorizing settlement of the lawsuit filed by Joseph Imbelloni; Imbelloni**
4 **Construction Co., Inc.; and Bayside Vista LLC against the City and County of San**
5 **Francisco for a Writ of Mandate against the City and County of San Francisco to cease**
6 **and desist from requiring a residential housing development commonly known as**
7 **Bayside Vista, 2011 Bayshore Boulevard from compliance with the Visitacion Valley**
8 **Community Facilities and Infrastructure Fee and Fund; the lawsuit was filed on August**
9 **19, 2008 in San Francisco Superior Court, Case No. CGC-08-478842; entitled Joseph**
10 **Imbelloni; Imbelloni Construction Co., Inc.; Bayside Vista LLC v. City and County of**
11 **San Francisco; Department of Building Inspection; Jose Cisneros, Treasurer of the City**
12 **and County of San Francisco, et al; other material terms of said settlement are set forth**
13 **in the Settlement Agreement and Release of Claims contained in Board of Supervisor**
14 **File No. 091140.**

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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 action entitled Joseph
18 Imbelloni, et al., v. City and County of San Francisco, et al., San Francisco Superior Court No.
19 CGC-08-478842, by permitting certain modifications of the Visitacion Valley Community
20 Facilities and Infrastructure Fee and Fund, Planning Code Section 318.10 et seq., as applied
21 to a residential housing development commonly known as Bayside Vista, 2011 Bayshore
22 Boulevard, including a reduced square footage payment and a later payment date and other
23 material terms as set forth in the Settlement Agreement and Release of Claims contained in
24 Board of Supervisors File No. 091140, and on such other terms as shall be negotiated and
25 approved by the City Attorney's Office.

1 Section 2. The Director of the San Francisco Department of Building Inspection or her
2 designee, is hereby authorized to: (1) collect and deposit all fees provided by the Settlement
3 Agreement and Release of Claims contained in Board of Supervisors File No. 091140, (2) to
4 monitor Imbelloni's compliance with all terms of such Settlement Agreement and Release, and
5 (3) to execute any and all documents necessary to comply with the City's obligations set forth
6 in that Settlement Agreement and Release of Claims, including such documents as are
7 necessary to release and reconvey portions of Imbelloni's project upon the payment by
8 Imbelloni of the Fee provided by the Settlement Agreement and Release of Claims.

9 Section 3. Notwithstanding any contrary provision in the Planning Code, the
10 Department of Building Inspection shall be reimbursed for its administrative costs associated
11 with administration of the Settlement Agreement and Release of Claims from the fees paid
12 thereunder, at the Standard Hourly Rates provided by Building Code § 110(A), Table1 A-D;
13 provided that the total administrative costs reimbursed for such administration of the
14 Settlement Agreement and Release of Claims shall not exceed four percent (4%) of the total
15 fees required to be paid pursuant to the Settlement Agreement and Release of Claims.

16 Section 4. The above-named action was filed in San Francisco Superior Court on
17 August 19, 2008, and the following parties were named in the lawsuit: Joseph Imbelloni;
18 Imbelloni Construction., Inc.; Bayside Vista LLC, City and County of San Francisco;
19 Department of Building Inspection, Jose Cisneros, Treasurer of the City and County of San
20 Francisco.

21 APPROVED AS TO FORM AND
22 RECOMMENDED:

RECOMMENDED:

23 DENNIS J. HERRERA
24 City Attorney

DEPARTMENT OF BUILDING INSPECTION

25 KRISTEN A. JENSEN
Deputy City Attorney

VIVIAN L. DAY
Director

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RECOMMENDED:

PLANNING DEPARTMENT

JOHN RAHAIM
Director