

1 [Settlement of Lawsuit]

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

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

22 Section 1. The City Attorney is hereby authorized to settle the eminent domain action  
23 entitled "City and County of San Francisco, et al., v. Myers Natoma Venture, et al.,"  
24 San Francisco Superior Court, No. 04-435-334; and the action under the California  
25 Environmental Quality Act ("CEQA"), California Public Resources Code section 21000 et seq.

1 entitled "Myers Natoma Venture, et al., v. City and County of San Francisco, et al.,"  
2 San Francisco Superior Court, No. 04-504-363, by the payment by the Transbay Joint Powers  
3 Authority, with funding from the San Francisco County Transportation Authority and the  
4 Metropolitan Transportation Commission, of fifty-eight million dollars (\$58,000,000); Myers  
5 waives any right to refile claims related to the June 2004 suspension of its permit for  
6 80 Natoma; and by the terms and conditions as provided in Exhibit A on file with the Clerk of  
7 the Board of Supervisors in File No. \_\_\_\_\_.

8 Section 2. The eminent domain action entitled City and County of San Francisco et al.,  
9 v. Myers Natoma Venture, et al., was filed in San Francisco Superior Court on October 8,  
10 2004, and the following parties were named in the lawsuit: plaintiff City and County of  
11 San Francisco, and defendants Myers Natoma Venture, LLC, the Prudential Insurance  
12 Company of America, Old Republic Title Company, iStar Financial, Incorporated, all persons  
13 unknown claiming an interest in the property, and Does 1 through 100.

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

20 APPROVED AS TO FORM AND  
21 RECOMMENDED:

22 DENNIS J. HERRERA  
23 City Attorney

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25 THERESE STEWART  
Chief Deputy City Attorney

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